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Right of Collective Bargaining in the European Social Charter and its Implementation in Selected European Countries and the Principle of Social Dialogue in Acts and Documents of the European Union

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Abstract. The study focuses on the right to conduct collective bargaining between the employers and their organisations and the trade unions as the form of association of employees (working people). The introductory remarks review the conventional regulations of collective bargaining right with special emphasis on the International Labour Organisation (ILO) Conventions, particularly, No.98 of 1949 and No. 154 of 1981. The article analyses the European Social Charter as a core of social act regarding social rights within the Council of Europe system, with special attention given to its collective bargaining regulations, principally provisions its art. In addition, the article comments on the provisions of art. 28 of the EU Charter of Fundamental Rights, a crucial EU regulation dealing with the process of collective bargaining. In conclusion the article argues whether the specifics of collective bargaining in the EU belong to the national regulations of EU member states. In its further parts, the article examines the principle of social dialogue in the European treaties and the practices of the Social Dialogue Committee of the European Union. Furthermore, the study presents the issue of relation between protection of economic freedoms and rights of an individual as provided by the 1997 Constitution of Poland and protection of such as established by universal and regional international regulations, including International Covenant on Economic, Social and Cultural Rights of 1966 and the ratified regulations of the Council of Europe.

Keywords: Convention on Human Rights and Fundamental Freedoms, European Social Charter, International Covenant on Economic,

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1. INTRODUCTORY NOTES

The right to conduct collective bargaining and to conclude collective agreements is one of the fundamental institutions of collective labour law.

In the literature, considered is the problem whether such right should be regarded as an emanation of freedom of association in trade unions as a separate right of employees represented by collective labour law entities.

The right to conduct collective bargaining has an established tradition of its regulation in the conventions of the International Labour Organization (ILO). It is covered by ILO Convention No 98 of 1949 concerning the application of the principles of the Right to Organise and to Bargain Collectively[1] and ILO Convention No 154 of 1981[2] concerning the Promotion of Collective Bargaining.

Article 4 of ILO Convention No 98 states that: "Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements" by the Parties to the Convention.

Article 2 of Convention No 154, on the other hand, defines the concept of 'collective bargaining'. It provides that this term applies to "all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other for:

- determining working conditions and terms of employment; and/or
- regulating relations between employers and workers; and/or
- regulating relations between employers or their organisations and a workers' organisation or workers' organisations."

Other ILO conventions are also relevant to the status of collective bargaining. Replace in particular, conventions should be adopted:

- No. 135 on employee representation (1971)[3],
- No 144 on tripartite consultations on international labour standards (1976)[4],
- No 151 on labour relations in the public service (1978)[5].

In the light of ILO Conventions No. 135 and No. 154, it is permissible to negotiate with elected representatives of the workers where the trade union does not operate. An analysis of the provisions of the ILO Conventions leads

[1] Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Geneva, 1st July 1949, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098.
[2] Collective Bargaining Convention, Geneva, 3rd Jun 1981, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312299.
[3] Workers' Representatives Convention, 1971 (No. 135), Geneva, 23rd June 1971, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312280:NO.
[4] Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), Geneva, 21st June 1976, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312289:NO.
[5] Labour Relations (Public Service) Convention, 1978 (No. 151), Geneva, 27th June 1978, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312296:NO.

to the formulation of thesis that the right of collective bargaining is not one of the components of freedom of association in trade unions, but a separate right of employees, which they can exercise through trade unions, but also in a different way (e.g. by elected representatives).

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Article 6 of the European Social Charter, which regulates social and socio-economic rights in the legal system of the Council of Europe, also formulates the right to collective bargaining. This right is enshrined in a concise manner – as a principle of social policy – in Part I of the Charter, which states that: 'All workers and employers have the right to bargain collectively.'

Part II of the Charter - Article 6 - indicates the scope and methods of implementation of this principle, including commitments to:

- promote joint consultation between workers and employers;
- promote, where necessary and appropriate, a mechanism ("machinery") for voluntary negotiations between employers or their organisations and workers' organisations, as a result of which collective agreements laying down terms and conditions of employment may be concluded;
- promote the establishment and use of conciliation mechanisms and voluntary arbitration in the settlement of collective (labour) disputes.

Additionally, the Charter Of Fundamental Rights Of The EU[6], negotiated and adopted as a document related to the EU Treaty of Lisbon (7 December 2007), in its Article 28 provides that:
'Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.'

Both regulations concern collective employment relationships and are in step-by-sectional convergence. However, the accents in their provisions are distributed differently.

Article 6 of the European Social Charter focuses its attention on the mechanism provided for reconciliation of the interests and positions of the two parties to the employment relationship: the collective of workers and, on the other hand, the employers. It emphasizes consultation as a stage of mutual definition of positions, and then negotiations aimed at reaching their amicable agreement based on a compromise.

The purpose of reaching an agreement is to consolidate its conditions for a limited period of time in the form of a collective labour agreement.

The mediation mechanism should encourage the elimination of difficulties in reaching an agreement, while the voluntary arbitration mechanism should encourage impartial settlement of disputes during the implementation of its contents. The provisions of Article 6 of the Social Charter are therefore characterised by their conciliatory attitude.

Article 28 of the Charter of Fundamental Rights of the UE seems to take a slightly different perspective. The starting point appears to be the belief in the difference between the interests of employers and employees. This conviction is accompanied by an awareness of the need to agree on those interests through negotiations aimed at concluding agreements at "appropriate levels". Indirectly, this means accepting the view that these interests are shaped differently at individual levels: company, industry (professional group) or a level perceived integrally on the scale of a given country.

Such view demands the establishment of a multi-level negotiation system. The problem that can occur and should be solved is the mutual relationship between agreements made at a higher level (with a wider subjective

[6] Charter of Fundamental Rights of the European Union (consolidated version), Official Journal of the European Union C 326/391, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:12012P/TXT.

scope) and agreements concluded at a lower level. The prevailing principle is that the latter should not lay down conditions worse than agreements concluded at a higher level.

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The aforementioned provision of the European Social Charter is quite general and requires some clarification. The legal form of consultation between employees and employers has not been specified. The Article 6(1) clause seems to cover:

- forms of direct contacts (e.g. consultations in the form of a meeting between the employer and the staff of the workplace at an employee meeting)

as well as

- contacts with crew authorities (e.g. with an elected works council)

and

- consultation with the bodies of a trade union or a number of unions operating in the workplace.

It also does not exclude contacts at the supra-company level (industry or otherwise separated department of the economy or non-economic activity). It also seems that obligation to 'promote' such contacts or consultations includes the obligation to create a favourable legal infrastructure both for establishing contacts and for taking into account the results of consultations in the process of regulating collective and individual employment relationships.

On the other hand, the second commitment (Article 6(2)) – which favours negotiations between employers or their organisations and workers' organisations – presupposes a certain degree of institutionalisation in relations between the parties to the negotiations. It is worth noting that the Charter lists "employers or their organizations" as a negotiating party. Therefore, it gives the opportunity to choose the negotiating entity depending on the "level" (scale) of conducted negotiations.

In the case of negotiations at the company level, there is no direct justification for involving business organisations in the negotiations, especially since this would mean participation in the negotiations of an entity from outside the workplace. The will to activate conciliation mechanisms under Article 6(3) remains consistent with the desire not to give divergences that may arise during the negotiations a broader dimension than the extent to which they have emerged.

For both parties of collective labour relations, collective bargaining and the resulting collective agreements fulfil certain functions.

On the employees side, what stands out are the protective and distribution functions of such agreements. The negotiated agreements shall protect the workers by:

- guaranteeing employees a certain level of security and durability of the employment relationship (e.g. by determining the conditions for permissible dismissal),
- specifying the time of work,
- guaranteeing a safe and hygienic conditions for its provision,
- defining the principles of determining remuneration, and
- defining the basic social benefits accompanying the employment relationship.

As per distribution function, collective agreements guarantee workers a share in the distribution of income generated by the economic activity in which they work, making a significant contribution to the generation of income.

On the part of employers, the arrangements are a reference point for calculating the economic and financial profitability of a specific activity, and in particular for calculating labour costs. They also guarantee, with their observance, a state of calm in relations with employees covered by the agreement.

2. THE PRINCIPLE OF SOCIAL DIALOGUE IN THE EUROPEAN TREATIES AND IN PRACTICE OF THE SOCIAL DIALOGUE COMMITTEE OF THE EUROPEAN UNION

The idea of social dialogue appeared in the documents and public statements of Jacques Delors, President of the European Commission in 1985 (often referred to as Val Duchesse social dialogue). The European Trade Union Confederation (ETUC), the European Community Industry Association - Union of Industrial and Employers' Confederations of Europe (UNICE)[7] and the European Centre of Public Enterprises (CEEP) have concluded several agreements on employment, education and training. The Single Act of 1986 created the legal basis for Community social dialogue, based on consultation and dialogue between the two sides of collective employment relations. The steering committee created at that time became a forum for dialogue between entrepreneurs and trade unions. It may be regarded as a very beginning of the current Social Dialogue Committee (SDC).

The turning point for the social dialogue in the Community (EU) primary law was the Maastricht Treaty of 1991[8]. It stipulated that an agreement concluded between the social partners at European level could become binding European law by means of an act of the Council. The Treaty of Amsterdam (1997) incorporated the Social Policy Agreement into primary law, thus establishing a framework for social dialogue involving the social partners of the Member States.

The Social Dialogue Committee was officially established in 1992 on the initiative of the European Commission when partners operating at European level:

- BusinessEurope,
- European Centre for Entrepreneurs and Enterprises Providing Public Services (CEEP),
- European Association of Craft, Small and Medium-sized Enterprises (UEAPME; now SME-united) and
- The European Trade Union Confederation (ETUC) and
- Eurocadres (Council of European Professional and Managerial Staff) and
- The European Federation of Leaders and Managers (CEC)

launched a series of meetings of its representatives on key employment and work issues.

Their meetings resulted in the development of seven agreements, which then became the basis for Council directives and framework agreements. From the beginning of work arose multitude of doubts regarding the representativeness of individual dialogue partners - both on the part of employers and of trade union associations. Those concerned in particular the number of associated business entities (on the employers' side) as well as the number of members of affiliated workers' unions and organizations[9].

The agreements concluded between the participants in the multi-sectoral dialogue have become the basis for a number of acts of secondary European law – e.g. the aforementioned Council Directives of 1996-1999 as well as the 2010 Parental Leave Directive[10]. The so-called autonomous agreements developed on the initiative of the dialogue participants have been transferred to the level of individual Member States. This concerns, for example the

[7] In January 2007, the Union of Industrial and Employers' Confederations of Europe (UNICE) changed its name to BUSINESSEUROPE.

[8] Treaty on European Union, signed at Maastricht on 7 February 1992, Official Journal the European Communities, C 191 Volume 35, (original text), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:1992:191:FULL&from=EN. Consolidated version of the Treaty on European Union, Official Journal of the European Union C 326, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012M%2FTXT.

[9] For example, it has been pointed out that the European Trade Union Confederation acts on behalf of about 165 million employees, while the total number of "leaders and managers" (people holding managerial positions) is estimated at about 1 million people.

[10] Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC, Official Journal of the European Union L 68/13, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0018.

agreements regarding[11]: *work-related stress (2004), *tele-work (2006), *harassment and violence at work (2007), *inclusive labour markets (2010), *active ageing and an inter-generational approach (2017)[12]. In the years 2019-2021, the Working Programme of Social Dialogue covered the following issues: digitization, improvement of the labour market, qualifications, psychological aspects and risks at work, shaping the capacity for social dialogue. The effects of the work include about 90 reports, recommendations, positions, opinions and schemes of good practices. The Framework Agreement on Health Security has been transposed into a 2010 EU Directive. In 2016, organisational work was undertaken to facilitate dialogue at multi-sectoral level; one of its goals was to introduce the principle of developing a common position of the three employers' confederations.

On the other hand the parties were unable to establish a permanent mechanism for collective bargaining at European level, which means that such negotiations are conducted almost exclusively within individual Member States at two or three internal levels: national, sectoral and at company level.

In parallel with the dialogue on a multi-sectoral scale, negotiations were undertaken within separate sectors of the economy. The basis for institutionalised meetings and work was provided by the decision of the European Commission of May 1998[13]. Following this decision, sectoral social dialogue committees were established, bringing together representatives of trade unions and professional organisations on the workers' side and associations of entrepreneurs active within a specific branch of the economy on the other. The number of industry committees increased steadily; currently in operation are forty-three sectoral social dialogue committees. These committees focus on industry-specific problems, usually of specific dimension and importance. Their findings, most often in the form of non-binding agreements, are characterised by a significant degree of implementation in the Member States, given their practical importance and implementation capacity.

Sectoral social dialogue usually takes one of two organisational forms:

1. a form of joint committees;
2. a form of informal groups.

The follow-up rate is relatively high and concerns 12 committees, 16 were created in the second period of operation (already in the twenty-first century). The most recent are committees: in the field of audio-visual transmission, administration, chemical industry, education, football, furniture, gas, hospitality, metal industry, paper industry, temporary work.

The work of sectoral joint-committees in their final effects may take the form of:

1. agreements based on Article 155(2) of the Treaty on the Functioning of the EU submitted to the Council of the EU, which may adopt them in the form of a decision;
2. framework agreements - they bind the dialogue partners who have concluded the agreement
3. the so-called frameworks of action - indications of sectoral policy priorities addressed to EU bodies;
4. guidelines, rules of conduct - addressed to national entities of a given sector;
5. policy orientations - defining sectoral policy priorities.
6. joint opinions - addressed to the EU institutions and to national institutions;
7. declarations - setting out the future action of the social partners;
8. tools - advice and indications of good practices for employees and employers;
9. procedural rules - regulations for further dialogue.

[11] Framework agreements, https://www.worker-participation.eu/EU-Social-Dialogue/Interprofessional-ESD/Outcomes/Framework-agreements

[12] European Social Partners' Autonomous Framework Agreement on Active Ageing and an Inter-generational, Approach, https://www.etuc.org/sites/default/files/circular/file/2019-07/European%20Social%20Partners%E2%80%99%20Autonomous%20Framework%20Agreement%20on%20Active%20Ageing.pdf

[13] 98/500/EC: Commission Decision of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level (notified under document number C(1998) 2334), *Official Journal L 225 , 12/08/1998, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31998D0500*.

Among the nine above indicated only the first two are considered as the ones which require their implementation. They account for around 2-3% of all final results of the work of the sectoral committees. The others belong to the category of so-called "soft" forms of influence.

Observation of the impact of the committees' findings indicates that there occur problems with their implementation. Until the year 2010 out of 40 operating sectoral committees, only about 60 final documents have reached the stage of their implementation, including: 4 so-called autonomous agreements (concluded at the initiative of the parties to the dialogue), one framework of action, 10 codes of rules of conduct, 33 guidelines (including - 1 multi-sectoral) and 13 sectoral policy orientations (indications of their priorities).

The main problem for the effectiveness of the findings of the sectoral committees is their impact on national economic operators (entrepreneurs). As a rule, entrepreneurs are not interested in implementing their social obligations. Also, the organizational dispersion of business associations in individual countries is not conducive to the implementation of the arrangements understood by confederations represented at the EU level.

Following the adoption of the Treaty of Lisbon, the role of the European Commission has also changed. It is limited to logistical support for social dialogue, both in the "multi-sectoral" and sectoral dimension (in the form of ensuring the conditions and bearing the costs of bilateral contacts and providing data and expert assistance).

By 2010, the work of the Sectoral Committees resulted in 6 directives on social issues:

- 3. on working time, two regarding maritime transport (1998, 2008),
- 1. regarding civil aviation,
- 1. regarding health and safety at work,
- 1. regarding hospitals.

In addition, adopted were 4. autonomous agreements (binding their signatories) and about 60 arrangements concerning the functioning of entities in a given economy sector.

The increase of the number of EU Member States in 2004 and beyond (Croatia) has complicated contacts with national organisations and environments as well as the flow of information to national organisations for a short period of time. The increased participation in the European sectoral associations of most of the organisations participating in the sectoral dialogue and the increased participation of their representatives in the meetings of the European Social Dialogue Council became a partial remedy to such problem. The Council meetings do take place directly before the annual meetings of the sectoral committees. The secretariat of employers' organisations is obliged to systematically inform the sectoral organisations concerned of the results of the work of the Sectoral Committees (SSDCs).

3. EXERCISE OF THE RIGHT TO COLLECTIVE BARGAINING IN SELECTED EUROPEAN COUNTRIES

In the practice of collective bargaining - negotiations - three "levels" of their undertaking and conduct have been formed:

1. a national level – with a presumption that the negotiations cover all the employees and employers in a given country;
2. the level of a specific branch of the economy or other activity related to the provision of work (industry, branch of the economy);
3. the level of the enterprise (workplace).

European countries differ significantly in the system of negotiation of collective labour relations, calculated to conclude or modify previously reached collective agreements.

The basic criteria for differentiation lie in:

- the differences in the scope and coherence of trade unions operating in individual countries

and

– in valuing certain "levels" of negotiations.

The existence of strong trade unions and high "unionization" means that the negotiating position presented by the employee side is characterized by high representativeness. It can therefore be extended without significant resistance to the general employees of the undertaking or industry concerned, without infringing the rights of the majority of workers.

3.1. Finland, Sweden and Denmark

The first group of Member States when it comes to the different approach to system of negotiation of collective labour relations consists of three Northern European countries: Finland, Sweden and Denmark. They are characterized by a high degree of unionization and collective bargaining, as a rule, at two levels: the department of the economy (industry) and the enterprise. Their characteristic feature is also the tradition of operation of three main trade union confederations in the country, organized according to the type of work provided: separately for manual workers, separately for white-collar workers, separately for people with a census of higher education. The system of collective bargaining in the first group can be illustrated by the example of Sweden.

In Sweden, until 1983, negotiations between the national employers' confederations (Swedish Employers' Confederation, SN) and the trade union headquarters, represented by the largest of them, *Landsorganisationen i Sverige* (LO), played a fundamental role.

After 1983, wage negotiations were moved to two lower levels of negotiation, while other issues (pensions, sickness insurance, family allowances, accident insurance, etc.) are still being negotiated at national level.

In 2020, the government negotiated **at the national level the assumptions of** a new law on the protection of the employment relationship. The result of the negotiations was an agreement signed by the largest trade unions, associated in LO, and by PTK, representing the union of white-collar workers of the private sector.

Wage agreements are the subject of collective bargaining at the level of individual sectors of the economy. In the case of manual workers, wages are negotiated and covered by agreements at the level of branch of the economy (currently in 42 %), while wages of white-collar workers - mainly in company agreements. More than 82% of private sector workers and nearly 100% of public sector workers work on the wage terms set out in collective agreements. Such a scale of influence of collective agreements is a consequence of the full participation of employers in them.

At the national level, trade union confederations agree on a common negotiating platform and form permanent negotiating groups. At the level of the economy department, negotiations are conducted by representatives of industry unions with representatives of the appropriate group of entrepreneurs.

Exceptionally, a single large business entity (e.g. SAS) may be a partner in trade union negotiations. These negotiations cover all issues related to wages, overtime pay, working time planning, holiday pay, business travel expenses. At the level of enterprises, negotiations are conducted between the entrepreneur with the representation of the employee crew, often with the participation of a representative of the regional or local union authorities.

Wage agreements are usually concluded for three years and negotiated in the spring period (from March to May).

In Finland, negotiations at national level and covering the whole economy played a crucial role until 2007. They included the basic elements of working conditions and wages. In 2008, the main employers' confederation EK refused to be ready for wage negotiations at national level. This resulted in shifting the burden of negotiations to the level of economic sectors.

The economic crisis of 2008-2009 necessitated the conclusion of several anti-crisis nationwide agreements (the 2013 Employment and Growth Pact and the 2016 Competitiveness Pact), which resulted in a return to negotiations at a central level. At the national level, there is also a tripartite Economic Council of Finland under the chairmanship

of the Prime Minister, composed of ministers of economic ministries, the head of the Bank of Finland, the presidents of the main trade union confederations and representatives of the main business associations as well as agricultural and forestry organisations.

After the end of the crisis period, wage negotiations returned to the level of economic sectors. The agreements negotiated there define the basic conditions for the provision of work and the structure of wages. The provisions of the agreements formally bind the members of the union that signed the agreement. An independent committee may extend the agreement to all employees of a department, especially if the members of the union make up more than half of the total number of employees in the industry. In practice, industry agreements cover more than 84% of employees. Negotiations at the industry level are conducted between industry employers' organizations and individual trade unions of a given industry. The rule is that unions belonging to different confederations negotiate separately.

Collective agreements are generally concluded within the framework of the terms of an industry agreement, although they introduce significant derogations, in particular in favour of employees. They are concluded between individual entrepreneurs and local trade union structures.

In Finland, collective agreements are signed for two or three years. They concern the issue of wages and working conditions; sometimes they also regulate matters related to its company specificity. As a rule, the level of wages is a reflection of the arrangements contained in the industry agreement, although the entrepreneur may offer different pay conditions. In Finland, there is no statutory minimum wage; according to the Law on Employment Contracts, it should be "reasonable and normal".

In Denmark, a system of three-stage negotiations has become established: thy take place at a national, industry and company level.

National negotiations are conducted between the main trade union FH and the confederation of entrepreneurs DA. Determined at this level are:

- basic assumptions of collective employment relationships concerning the right to organise of workers,
- dismissals from work and
- collective disputes.

Such findings replace the rules laid down in other countries in normative acts.

Until the 1970s, at this level of negotiations, the terms of work and the assumptions of the wage system were also agreed. Since the early 1980s, these issues have been regulated in industry layouts (industry collective agreements).

Wage arrangements are adopted depending on the ownership status of workplaces. In the private sector, the largest part is made up of agreements concluded at company level. In industry, retail and finance, the essential elements of the wage system are regulated in company layouts (agreements). This applies to nearly 80% of employees; for the remaining 20% (including: transport and food processing), industry arrangements regulate the basic elements of the employment relationship and remuneration. Since the late 1980s, industry agreements have also regulated pensions, flexible working hours, maternity leave funds and training.

In the public sector, the wage system is set centrally in agreements concluded by three types of employing authorities: national, regional and local, and representatives of the unions associating workers in this sector. Only a small part of the wage system is left to local arrangements.

Collective bargaining at the national level is conducted by representatives of the authorities of the DA employers' confederation and the FH trade union confederation. In turn, negotiations at the industry level, focused on wage issues and working conditions, are conducted by representatives of industry unions or their groups and industry associations of entrepreneurs. Negotiations at company level take place between the management of the enterprises and the union or unions of the employees of the plant. The typical duration of such collective agreements is two or three years.

The government authorities have established the office of a mediator (consigliere) who, in the event of difficulties in reaching an agreement, acts as intermediary in the dispute between the parties. Such action implemented the clause of Article 6(1) of the European Social Charter, which obliges to its members to establish a conciliation mechanism for the settlement of collective disputes.

3.2. Belgium, Austria, the Netherlands, Italy and France

The second group countries with different approach to collective bargaining consists of Belgium, Austria, the Netherlands, Italy and France. These countries are characterized by a much lower degree of "unionization" of the collective of workers. It amounts to 50% of the total workforce in Belgium, 35% in Italy, 28% in Austria, 20% in the Netherlands and only 8% in France. That fact does indeed adversely affect the representativeness of trade union organisations from the point of view of the collective of workers as a whole. Nevertheless, in some countries, the scope of collective agreements exceeds the ceiling set by the scale of trade union membership.

In Austria, such exceedence is determined by the obligation for entrepreneurs to associate in chambers of commerce. On the part of entrepreneurs, collective agreements are negotiated by the Chamber and become - at the time of their adoption - binding on all members of the Chamber. Thus, the provisions of the collective agreements concluded cover almost 98% of private sector workers.

The Austrian specificity lies in the fact that although membership in chambers is compulsory for both employers and employees (they form the chambers of labour, AK), only chambers of commerce (WKO) participate in collective bargaining and the conclusion of collective agreements (Kollektivverträge). The collective of workers is represented by trade unions. Only in a few narrow industries the employers are represented by their industry associations (e.g. in finance and printing). The negotiations cover the essential elements of working conditions, the formation of wage rates (including additional holiday type salaries), pension issues, as well as directional arrangements for programming wage growth.

The widespread use of industry agreements and their detail does not leave much room for agreements at company level. The principle is that the provisions of these agreements must be more favourable to the employees than the regulations of trade agreements.

In Belgium, collective bargaining takes place at three levels: national (central), sectoral and (less frequently at) company levels. The provisions of agreements concluded at lower levels may contain only solutions more favourable than those contained in the agreement at a higher level. In the case of negotiations at the state level, there are government interventions aimed at bringing together the positions of the parties.

Negotiations at state level face difficulties; they are mostly due to discrepancies between the three main trade union confederations. The negotiations are popularly referred to as the "Group of 10" activity, as five representatives of the unions participate, two of whom represent the CSV/ACV confederation, two represent the FGTB/ABVV confederation, one represent the CGSLB/ACLVB confederation, and on the other side five representatives of employers' organisations.

The two collegiate advisory bodies of the Belgian Government are also the place of contact between the unions: the Central Economic Council (CCE/CRB) and the National Labour Council (CNT/NAR). The National Labour Council serves as a forum for employers' and employees' negotiations.

At industry level, trade unions and business associations negotiate within mixed committees and subcommittees. Committees are set up for broader industries while the subcommittees are provided for narrower industries. Their number is considerable; in 2018, negotiations took place in 101 committees and 66 subcommittees. Each of the entrepreneurs is assigned to a specific commission or subcommittee. The agreements concluded are

binding on all members of the employers' association and members of the association signing the agreement; as a rule, they are extended by royal decree (de facto: government) to other employers and employees of a given industry.

Agreements at the enterprise level are concluded between delegations of unions in a given workplace, a representative of a local trade union organization and individual entrepreneurs. The participation of a representative of a local trade union organization determines the validity of the agreement (this may be the subject of doubts regarding full reciprocity in the relations between the parties to the agreement). Company agreements may not concern wage issues. They currently cover more than 1/3 of enterprises. They are more common in industrial plants, much less in construction, transport and hospitality.

Determined in the central level agreements are the issues of wages and the general rate of their growth (along with the consequences of their mandatory indexation, although detailed rules are set at the industry level), job creation, vocational training, employee participation in the distribution of profit. The minimum wage is also set at the central level through negotiations between trade unions and employers in the National Labour Council. In the company negotiations, only bonuses related to the centrally determined indexed growth are determined.

In Italy, the collective bargaining generally takes place at two levels: industry and company.

The national level is used occasionally, e.g. for the implementation of EU initiatives. Relations between industry and company systems changed in 1993, after the introduction of a new system of employee representation in enterprises. In addition, work on the wage indexation system (in accordance with price increases) has been completed.

Industry-level negotiations focus on wage increases, working hours, holidays, information and work organisation. Industry arrangements account for about 80% of employees, while company agreements account for less than 40%.

Trade union federations and business federations remain parties to negotiations at the industry level. The multiplicity of trade unions means that the main confederations have agreed that the condition for the validity of the agreement is the representation of at least 50% of the industry's employees by the unions participating in the negotiations and the approval of the agreement by the majority of the employees concerned. This rule is boycotted by unions that do not belong to the three large confederations.

Industry agreements concern wage growth correlated with price increases and inflation rates, working time, maternity leave, sick leave, training, health care, work discipline, recruitment, job classification.

Company agreements focus on the distribution of profit, the impact of innovation on the number of jobs, bonuses for employees, social benefits and crisis management. The subject of the dispute is the introduction of a statutory definition of the minimum wage; trade union confederations are reluctant to this proposal, promoting its establishment in industry agreements.

In France, despite the low level of "unionization", the scope of application of the provisions of the agreements is extended. The legislator came here to the aid of the trade unions by introducing the obligation of entrepreneurs to negotiate company agreements annually. A similar type of obligation is also applied at the level of agreements in individual sectors of the economy.

Until 2017, the most important provisions on collective employment relationships in France were laid down in agreements at national level. In addition, there was a rule that the government's legal regulations relating to employment relations and wages should be preceded by an attempt to establish them in the form of a nationwide agreement. Acts of the law required consultation with representatives of trade union headquarters and representative confederations of employers.

In 2017, the powers to conduct negotiations (important in view of the multitude of trade union organizations and associations of entrepreneurs) and the conditions for recognizing the concluded agreements as binding were regulated.

The changes in the legal regulations consisted in clarifying the manner of representing the parties to collective bargaining, reducing the number of industries within which industry agreements are concluded and establishing three blocks of matters to be regulated at individual levels for conducting collective bargaining, while establishing the priority of applying the provisions of the agreement concluded at a given "level".

Legislative changes have led to clarification of the issue of rights to represent the parties to the negotiations: employees and employers.

Negotiations at national level may be conducted by unions which have received at least 30% of the support in the election of representatives of the workers' side and where this is not opposed by unions with a total of more than 50% support in these elections.

In industry negotiations, the support of at least 8% of votes in favour of a given trade union federation is required. A similar indicator of representativeness applies to the side of associations of entrepreneurs.

In negotiations at company level, the trade union should obtain the support of at least 10% of all employees when electing its representative in the negotiations. In negotiations at the enterprise level, the trade union side should be represented by a socio-economic commission (CSE) elected by the CSE employed there, in place of the previous practice of appointing a trade union delegate. This issue is regulated in great detail for individual groups of companies, depending on the number of employees. The 2017 legal regulations established a calendar for conducting negotiations, as long as their authorized parties had not previously agreed on a different schedule of negotiations.

The specificity of French collective bargaining regulations is the fact that the law of defines the obligatory subjects of negotiations at each of the three levels of negotiations:

- at the national level negotiated shall be: the assumptions (rules) of collective labour relations and matters of social security;
- at the level of industries, the following issues should be negotiated: wages; equal treatment of men and women; working conditions and promotion; disabled workers; vocational training; classification of workplaces; company saving systems; part-time work;
- at the company level , the following topics remain obligatory topics: wage issues; working time; employee participation in the distribution of the company's profit; equal treatment of men and women; employment plans and career paths.

Issues other than the above may be the subject of such negotiations at the parties will. Wage negotiations must take into account the minimum wage set annually by the state.

3.3. Germany, Spain, Portugal , Malta, Ireland

The third group of countries: Germany, Spain, Malta, Ireland and Portugal have yet another approach to the issue collective bargaining.

Treating Germany as representative of this group, it should be pointed out that generally there are no negotiations at the federal (statewide) level.

Negotiations therefore focus on the industry and company level. There are also cases of agreements between an industry association and a specific large enterprise.

A typical solution for the German system is to regulate the issues of wages and framework provisions on working time, admissions and dismissals, night work allowances, holidays and sick pay, treatment of older workers in the sectoral collective agreements.

After the establishment of the minimum wage in 2015, the lower rates provided for in the agreements remained in force until 2017. Industry agreements regulate the most conflicting wage issues. In company negotiations employees are represented by labour councils. They may offer employers to adopt conditions more favourable for

employees than those specified in the industry agreement and different solutions in matters covered by the so-called open clauses of industry agreements.

There are two mechanisms for extending the validity of concluded agreements to entities that are not members of the unions that have concluded the agreement. One of them is the requirement for a given trade union to represent at least 50% of employees. The second mechanism concerns a group of companies operating in Germany run by non-Germans, where the minimum requirements resulting from the agreements adopted for a given industry may be introduced to such companies by an act of the Minister of Labour.

The level of collective agreements for workers is lower in Germany than in the second group and continues to show a downward trend (from 70% in 1996 to 44% in 2019). The reasons for this trend are the general lack of will of new entrepreneurs to associate in industry organizations, especially in the western states (Länder) and the liquidation of many companies until now (traditionally) associated in employers' organizations.

In **Spain**, until 2002, negotiations at national level with the participation of government representatives or only between trade union confederations and employers' associations led to arrangements that bound negotiators at lower levels on wage issues (including wage growth rates), working conditions, vocational training, social security and workers' health.

Some of the agreements were concluded in 2020 in connection with the COVID-19 pandemic (including: the agreement on the protection of the durability of employment, of May 2020, on remote work of September and on the resolution of collective disputes of November 2020). Wage agreements are concluded for three years, indicating the need to update them annually. During the financial crisis of 2009 and the following years, long-term agreements were concluded to slow wage growth. In 2018, the typical arrangements were returned. Agreements concluded at national level are not legally binding, although they are practically taken into account in negotiations at a lower ceiling.

The Spanish system of negotiations at a sub-national level is characterized by diversity and lack of order. Large and medium-sized enterprises prefer to conclude arrangements at the company level. Small businesses opt for agreements in industries at the provincial level. In the construction, banking and chemical industries, nationwide systems are in force. The government has the power to extend the power of agreements beyond the circle of direct signatories, but it rarely exercises this right (or does it to a minimal extent).

The reforms of 2011-2012 strengthened the importance of negotiations at the company level. They covered key issues of pay and working conditions and time, with the possibility of derogating from the provisions of the agreements at the provincial level. In addition, an arbitration mechanism has been established in cases of failure to reach agreement between the parties, in accordance with the requirements of the European Social Charter. Between 2011 and 2018, the number of company agreements increased to 29%, albeit with a decrease in their reach among employees by 8%.

The parties conducting negotiations at the company level are: the entrepreneur and the elected works council. In addition, a trade union operating in the plant may participate in the negotiations, provided that I have a majority of its members in the composition of the council. At higher levels of negotiations, employees are represented only by the "most representative" trade unions and other unions, provided that they have at least 10% of the members in the composition of the works council elected by the staff in the plant. The status of "representative" unions is in practice attributed to the largest nationwide trade union confederations: CCOOI UGT, in the Basque Country - ELA/STV federation, in Galicia - UGT. Collective agreements are concluded routinely for three years, with the possibility of extending their validity by a provision of the agreement. Legal regulations adopted in the year 2012 drew the upper limit of such extensions, shortening it to a year.

The issues of equal treatment of workers, vocational training and guidelines on wage increases are the subject of national agreements. As a rule, they are concluded for a period of three years. Agreements at the provincial or regional (as well as industry) level usually concern wage issues, working time and, in a decreasing range, anti-

inflationary allowances to wages. Ministerial statistics show that 91% of employees remain within the scope of the arrangement provisions in relation to benefits in the event of illness or accident at work, 87% within the scope of the provisions on the classification of workplaces, 79% - in matters of trade union representation, 51 - in the field of vocational training, 48% - in matters of occupational pensions.

The annual setting of the minimum wage by the government is preceded by a mandatory consultation with the leading trade union confederations and the main employers' associations (although the government is bound in this respect by the indicators specified in the act). Trade unions and employers' confederations may include this issue in an agreement at national level. The obligation to consult corresponds to the provisions of Article 6(1) of the European Social Charter.

In Portugal, collective bargaining on industrial relations at the level of:

1. industries (departments) of the economy;
2. groups of undertakings;
3. individual enterprises.

The practice of negotiating and concluding nationwide agreements has not been formed in Portugal.

The agreements of specific departments of the economy (industry) are the most numerous, although in some sectors of the economy (such as banking, communications and services) agreements between a group of companies and employees prevail (ACs). On the other hand, in comparison with the countries of the second group, the system of prioritisation of arrangements is reversed: plant (workplace) arrangements are guaranteed priority over agreements involving a group of undertakings and the latter over agreements within the sector.

The government's policy of extending the scope of agreements to entities not represented in the negotiations changed dramatically in 2009 (under the influence of the crisis), while in 2008 out of 172 concluded agreements, 137 were expanded, in 2014 the number of extensions fell to 12. This trend does not apply to small and medium-sized enterprises. After the Socialist Party and its left-wing coalition partners took power in 2017, the policy of "promoting social cohesion and equality" led to the establishment of new rules for extending the scope of the agreements. The result was an increase in extensions to 84 in the year 2017, to 75 in the year 2018 and to 83 in the year 2019.

In 2014, the maximum duration of the agreements was reduced from five to three years. Trade union confederations and employers' associations also agreed on the maximum time to extend the validity of the agreements to one and a half years, whereas in matters of health and social benefits they decided to conclude a new agreement. Wage agreements are traditionally concluded for annual periods. Practice, however, has not kept pace with this requirement: after 2010, only slightly more than half of the employees were covered by the agreements signed during a given year.

In Portugal, there is a Permanent Commission for Social Consent, with the participation of employers' representation, the two main trade union confederations (CGTP and UGT) and the government. In this body, the assumptions of legislation relating to labour matters are agreed. After 2015, after the Socialist Party took power, new laws on minimum labour (2016) and the rules for extending the scope of collective agreements (2017) were adopted after consultation in the Council.

The Portuguese Labour Code allows company arrangements to be negotiated by a works council, a trade union unit or by a representative of the local trade union authorities approved by the works trade union organisation. In most cases, these are organizations associated with the two largest trade union headquarters: CGTP and UGT, with the participation of smaller federations. Systems involving different compounds acting in parallel are, as a rule, very similar in content.

Agreements at the supra-company level usually determine the minimum rates of wage increase, and in addition, issues of working time, overtime, night work and matters related to the specific conditions of its provision, vocational training, rules for changing arrangements, social benefits. The minimum wage is determined by the

government after consultation with trade union confederations and employers' associations in the Social Harmony Council.

3.4. Czech Republic, Slovakia, Hungary, Poland and the Baltic Republics

The fourth group – among the states with different approach to collective bargaining - consists of the countries of Central and Eastern Europe: Poland, the Czech Republic, Slovakia, Hungary and the Baltic republics (with some distinctions in the case of Estonia).

In Czech Republic, collective agreements cover 44.5% of employees, while 40.2% remain outside their scope. The status of 15% of employees is not clearly defined.

Despite the adoption of the 2004 legal regulations allowing for the extension of the scope of the agreements, a downward trend can be observed. Most of the company agreements were signed by trade union organizations belonging to the largest trade union headquarters in the Czech Republic, ČMKOS.

The number of supra-company agreements is relatively small; in 2018, only 16 of them were in force. The possibility of extending them to entities not associated in organizations that negotiated a collective agreement depended on the consent of the main trade union confederations, operating in a given area of the economy and the main employers' associations of a given industry; five agreements met such conditions in 2018.

The framework for collective bargaining was set out by the "general agreements" of the 1990s, developed in the trilateral Council for Economic and Social Understanding (RHSD), with the participation of representatives of the government, trade union federations and employers' associations. The Council, which meets every six weeks under the chairmanship of the Prime Minister, consults on the main government initiatives on the labour market.

All trade unions operating in a given workplace take part in negotiations at company level. Previously practiced limitation of the negotiating parties (on the workers' side) to union which is most numerous in the (specific) plant was considered by the Constitutional Court to be contrary to the constitutional principle of equal treatment.

The scope of the negotiations at company level includes the above all issues related to remuneration. In addition, they also address the issues of working time and its organization, matters of health and safety, employers' contributions to the pension fund. Negotiations at the company level are conducted annually, while at the supra-company level they generally take place once every two years. Wage agreements are subject to annual revisions made in the form of supplementary agreements. They must take into account the minimum wage set by the government after consultation in the Council for Economic and Social Agreement.

In Hungary, collective agreements cover 20.4% of workers. Most numerous are the agreements concluded by an entrepreneur or a group of entrepreneurs with one trade union.

The arrangements between the employing institution and its employees and their trade union function as a rule in the public sector. In only few brunches of industry (e.g. in the chemical industry) one can find the agreements concluded by employers' associations and not a single entrepreneur.

Previous Hungarian governments have made efforts to popularize industry arrangements by creating 23 social dialogue committees (ÁPBs). Current authorities show less interest in this course of action. The initiatives to extend the scope of the concluded agreements to all employees in a given industry have so far not brought (apart from construction and hotel industry) a lasting effect. Additionally, the State Mediation and Arbitration Service established in the mid-1990s did not play a significant role in supporting collective bargaining processes; its activity is limited to few involvements in such processes during each year.

Until 2011, the trade union federations were able to negotiate in the tripartite National Council of Reconciliation (OÉT) with the participation of government representatives. Those negotiations concerned the matters of minimum wage and the rules for increasing it. OÉT has developed non-binding recommendations for

use in collective bargaining at lower levels. In 2001, the government abolished the OÉT, replacing this institution with the National Economic and Social Council, which included, alongside the trade union central committees, representatives of employers, chambers of commerce, social organizations and churches. In 2012, the three largest business associations (MASZSZ, LIGA, MOSZ) formed the Permanent Consultative Forum as a forum for debates and agreements between employers' organisations in the private sector.

Amended in 2012 The Hungarian Labour Code allows negotiations to be conducted by the workers councils in those workplaces where no trade union operates and where the plant (workplace) is not covered by a previously concluded collective agreement. The trade union has the right to conduct negotiations only on the condition that it associates not less than 10% of the establishment's employees . The same level of "unionization" is a requirement for the union to participate in industry-level negotiations. Unions with more than 10% of employees can cooperate in negotiations and in developing a single common agreement.

In practice, the decisions are made at the Permanent Consultative Forum, representing private sector employers and trade unions operating there with the participation of government representatives. The arrangements made there are presented for formal approval by the Economic and Social Council and are then taken over to the government. The Government is not bound by the arrangements made. However, it must respect the principle that the remuneration corresponds to the rates for positions requiring at least full secondary education.

In the public sector, minimum wage rates and other rigid requirements are set by government decrees. In this sector, the regulation of working time, allowances, grounds for suspension from duties and dismissal from work has been excluded from the area of negotiations. The minimum wage is fixed by government decree after consultation within the Economic and Social Council.

The analysis of the solutions adopted after 2011 indicates significant restrictions on the freedom to conduct collective bargaining and negotiations. They concern the rights of unions to participate in negotiations (the requirement to concentrate at least 10% of employees), the abolition of the National Council of Reconciliation and the promotion of wage arrangements on the arrangements of the Consultative Forum dominated by employers, changes in the membership of the Economic and Social Council and the marginalization of the role of social dialogue committees.

3.5. Romania and Greece

The fifth position regarding the collective bargaining is represented by a group of countries such as: Romania and Greece. In these countries, the scope of collective bargaining is relatively modest.

In Romania, according to data from the European Labour Institute (ETUI) collective bargaining took place win regard to 35% of the total workforce in 2013 and fell to 15% in 2017.

The right to negotiate at the company level was granted to workers unions belonging to a trade union, which in turn is associated in a national level confederation, recognized as being representative. The Social Dialogue Act of 2011 eliminated negotiations at national level regarding wage matters and working conditions. It limited collective bargaining to the level of individual departments (industries) of the economy and to the company level.

Agreements concluded at the industry level bind only entities associated in unions and employers' associations that have signed a given agreement. Its extension to the entire industry is possible subject to the consent of the signatories of the agreement and provided that they represent more than half of the employees in the industry. The extension of the agreement must be approved by a national council composed of representatives of unions, employers' associations and the government. The requirement for the union to be able to participate in negotiations at the industry level is that it associates at least 7% of employees in the industry, while on the side of employers' – that such union employs minimum of 10% of employees. ETUI research indicates that most employers' associations do not meet this requirement; also recognisable is a tendency for the owners of smaller companies to leave such

associations. As a result of changes of Romanian legal framework for collective bargaining, the number of industry agreements signed fell from 8 in 2010 to two in 2019 (both were concluded in the public sector: healthcare and education).

Romanian legislation requires collective bargaining at the level of companies with more than 21 employees. However, this is not an obligation to conclude a collective agreement in result of such negotiations. A company's trade union may be formed by a group of 15 or more employees. This prerequisite means that it is not possible to form a trade (workers) union organization in nearly 90% of Romanian small businesses. As the Romanian economy is dominated by companies with a smaller number of employees; they are beyond the scope of the obligation indicated herein. The introduction of the Social Dialogue Act of 2011, followed by the poor economic situation, resulted in the general decrease of number of company agreements compared to the period before 2011 (with the exclusion of years 2018 – with 10,708 and 2019 – with 8,233 - new and modified company agreements).

The regression in the conclusion of company agreements resulted from the requirement that only the association whose members constituted more than half of the persons employed in a given establishment was authorized to conduct negotiations with the entrepreneur. Negotiations could also be undertaken by a trade union federation associating at least 7% of employees in a given industry, with the participation of representatives of the crew selected by it. In the absence of this situation, the crew representatives elected by the workers' collective had the right to negotiate. They participated in the negotiations also after the repeal of the requirement of representativeness of the union in 2016 in the group of company arrangements concluded in 2017. 85.5% of such agreements were those made by representatives selected by the crew.

Romanian legislation prohibits the conclusion of more than one collective agreement for a given sector (department) of the economy and for a given company. Until 2011, the Economic and Social Council (CES) was composed of representatives of trade union federations, business associations and the government at national level. It was replaced by the National Tripartite Council for Social Dialogue (CNTDS), where government representatives were replaced by representatives of social organizations. It is an advisory body which expresses opinions on government programs and legislative projects on economic, social and health care issues. Social dialogue commissions also operate in a number of ministries and at the level of administrative districts.

The regression in collective bargaining and the number of agreements concluded prompted initiatives to amend the current act on social dialogue. The proposed amendments assumed lowering the threshold of representativeness of the trade union federation from the level of "unionization" from 50% to 35%. So far, they have not received sufficient support in parliament.

In Romania trade union federations participate in negotiations at the level of an industry or group of undertakings, provided that they associate more than 7 % of the employees in a given sector of the economy or public service. The agreements they make are concluded for a minimum period of one year to a maximum of two years (with the possibility of extension for a further two years). Collective bargaining shall commence at the latest on the 45th day before the expiry of the agreement and shall last a maximum of 60 days. The subject of negotiations may not be the qualification of workplaces. In matters of wages, they concern payment for overtime, bonuses, reimbursement of the costs of vocational training and business trips, remuneration during holidays; above that they concern the conditions of work, employment contracts, working time, dismissals and severance pay. The level of the minimum wage is set by the government after consultation in the Tripartite Social Dialogue Council (in November 2019, as many as 24% of workers in Romania received a salary at the level of the minimum wage).

By comparison, in Greece, the collective bargaining system changed fundamentally between 2010 and 2012, during a severe economic collapse, especially in due to the necessity for Greece to use external financial support from the International Monetary Fund and the European Union. Until the crisis, collateral bargaining (negotiations) was conducted at the national level, at the level of the branch of economy, at the level of individual professional group (e.g. such as musicians or actors) or at the company's level.

Agreements concluded at the national level (EGSSE)[14] set a nationwide minimum wage and other basic elements of the employment relationship and specific issues (such as remote work). Concluded by the most important trade union central committees and employers' confederations, they bound all employers and employees. In addition, there functioned nearly hundred agreements set for individual sectors of the economy (such as the chemical or hotel industry) and about 90 agreements for individual professional groups. Greek agreements at the national level bind only the members of those organizations that are associated together in national confederations.

Law No 4093 of 2012[15] changed the way the minimum wage was set. The government became competent in that area, with the condition that its decision is consulted with trade unions and business associations. The minimum wage is set by the government after strict consultation with employers' organisations, trade unions and market and industrial relations experts.

Law No 4024 of 2011 allowed company arrangements to lay down conditions different (also: inferior for the workers) from those established at industry or profession level. This resulted in a periodic increase in the number of company arrangements concluded (to 976 in 2012), with a later downward trend (244 in 2017 and 14 in 2018).

After the end of the anti-crisis austerity program in 2018, the principle of applying the provisions of the agreement most favourable to employees was restored, which resulted in the restoration of the importance and popularity of industry and profession-specific arrangements. Again, it was allowed to extend the scope of the agreement beyond the collective of employees associated in unions.

The parties to typical negotiations are employers' federations, while at the company level - specific employers and, on the opposite side, trade unions. The agreement is signed on behalf of the employees by the union with the largest number of members with full employee rights, including: the right to elect representatives.

At the national level, negotiations are conducted by trade union federations (GSEE and AGEDY), while agreements are signed by the larger of them (GSEE).

During the financial crisis, the formula of signing company agreements became widespread in Greece, where the employees of the workplace were represented by employees' "associations of people". For example, in 2012 they were parties to 72.6% of company agreements: agreements with the participation of the company trade union organization accounted for only 17.4%, while those concluded with the participation of the superior trade union instance - only 10%. In order to preserve jobs, wages were reduced in these arrangements (to the level of the minimum wage set by the government). A serious decrease in the number of company arrangements has reduced the importance of such agreements (marked by a decrease in trust in trade unions).

Until 2012, collective agreements were concluded mostly for one year, with the admissibility of longer periods. Law No. 4046 of 2012 established periods: minimum - one year and maximum - three years. After the expiry of the agreement, its provisions could be applied for three further months, provided that they were included in an individual employment contract. Agreements at national level are usually concluded for two years; their provisions may be invoked for a further six months.

A special institution of mediation and arbitration (OMED) provided assistance in collective bargaining. Thus, the State's obligations to promote mediation and voluntary arbitration as instruments for resolving collective disputes, as provided for in Article 6(3) of the European Social Charter, were fulfilled.

[14] National General Collective Agreement (EGSSE), https://www.gov.gr/en/sdg/work-and-retirement/terms-and-conditions-of-employment/general/national-general-collective-agreement-egsse.

[15] Law N°4093/2012 approving the medium-term fiscal strategy 2013-2016 and introducing emergency measures implementing Law N° 4046/2012 and the medium-term fiscal strategy 2013-2016, https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=99876.

4. FINAL REMARKS

I. The workers' right to collective bargaining is satisfactorily guaranteed by the acts of universal international law: the 1966 Covenants of Rights (in the UN system), Conventions Nos. 98 and 154 of the International Labour Organisation and the European Social Charter (in Article 6 thereof) of the Council of Europe, as well as in Article 28 of the Charter of Fundamental Rights of the European Union. Present are also mechanisms for monitoring compliance with this right, although the problem of their effectiveness may lead to different assessments.

II. The following issues may raise questions regarding the effectiveness of the right to collective bargaining of implementation in EU member states:

- the criteria for the settlement of the prerequisite of representativeness of the union and therefore its ability to conduct collective bargaining (in cases of the requirement for such union to associate at least half of the employees of a given industry;
- the right to negotiate and sign a collective agreement only by the union with the most numerous membership or a union with a certain level of concentration of employees (e.g. France - 30%);
- the requirement of participation in negotiations of a trade union's delegate while the negotiations are conducted by the members of the workers' collective in order to validate (recognise the validity) the negotiated agreement (Belgium);
- the power of the government to extend the scope (applicability) of a collective agreement to persons/economic entities not participating in the negotiation and signing of such agreement (Hungary, Romania).

III. Observed may be the tendency to move away from the three-level model of negotiations towards the model of negotiations conducted at the economy's branch level, also in countries with a long tradition of nationwide negotiations (Sweden, Finland after the 2008-2009 crisis, Denmark in relation to the private sector, Greece since 2018) or a tendency to abandon the practice of conducting such negotiations (Italy, Portugal, Germany - lack of negotiations at federal level due to the division of competences between the federation and Länder, Romania since 2011).

IV. Simultaneously, there is a tendency to limit the subject of negotiations at national level to salary increase rates, the issue of the sustainability of employment relationships and forms of employment benefits (Belgium), the classification of jobs and the assumptions of the occupational health protection system, the assumptions of the pension and social benefits system (Spain until 2002). In a number of countries, those subjects were shifted to the level of industry agreements (Denmark - in the field of pensions and maternity leave, Italy - in the field of family benefits, Germany - in the field of sickness benefits, Czech Republic - in the field of occupational health protection and employers' contributions to the pension fund).

V. A shift in the responsibility for arrangements regarding the issues of working time, working conditions and the shape of additional employee remuneration negotiations conducted at industry's and even company's levels – therefore to the level of industry or company agreements (e. g. working time agreements - in France and Spain) may be observed.

VI. Limited number of countries have a permanent mechanism for mediation and voluntary arbitration used for the settlement of collective disputes (consigliere in Denmark, Mediation and Arbitration Service in Hungary, Mediation and Arbitration Office in Greece).

VII. In the EU's social dialogue, there is a tendency to shift the burden of conducting such dialogue to on sectoral level (sectoral dialogue), with insufficient impact of the sectoral final arrangements on the process of creating European law and insufficient impact of sectoral organisations at national and European level. There also seems to occur a problem of the effectiveness of bilateral communication between national and EU level trade union structures.

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