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12 European Industrial Relations after the Crisis. A Postscript

Roland Erne

Since the revitalisation of the European integration process by the Delors Commission, European institutions have been encouraging social dialogue and the emergence of a European system of industrial relations. Certainly, the proponents of a social Europe have recurrently deplored the discrepancies between the development of the EU's stern market-making regulations and the relative weakness of its social policies and labour law directives. Nevertheless, the asymmetric nature of the European integration process did not weaken the more or less implicit functionalist consensus among European integration and industrial relations scholars that the tensions created by the EU's market-making initiatives will also prompt market-correcting rules, institutions, and processes.

The chapters in part one and two of this book that discuss recent developments show indeed that industrial relations at European cross-sectoral, sectoral, and company level are evolving, despite obstacles and difficulties. The lack of political will from the Barroso Commission to promote improved labour standards has not prevented European social partners from developing various initiatives at different levels. At the same time, the contributions of Peter Turnbull, Nick Parsons, and Maarten Keune demonstrate how the Commission's current liberalisation agenda is undermining the social consensus that was at the heart of the European integration process. Social dialogue remains an important

feature in many European countries, especially in Scandinavia and in the German manufacturing sector. But the global financial meltdown in 2008 and the subsequent European debt crisis undeniably further accentuated the European authorities' preferences for unilateral market-based solutions.

Janine Goetschy concluded her contribution in this volume by stating that the European debt crisis could lead to a major breakthrough in European economic governance with huge consequences for the EU altogether. The crisis forcefully demonstrated that those who already argued in the 1990s that the European Monetary Union also needed to include a political union were correct (Pochet 1999, Marin and Ross 2004). After the crisis even neo-liberal opponents of a political union had to concede that the belief in a spontaneous convergence of the real economies within a Eurozone without stringent government structures was naive. However, the political solutions that have been implemented by European leaders amid the crisis are hardly comforting for supporters of an integrated, social and democratic Europe. Instead of *laissez-faire*, financial elites are advocating authoritarian solutions to the crisis that are completely in tune with their winner-take-all attitudes of the pre-crisis boom and bubble years. Accordingly, European economic governance is taking a direction which entails profound social and democratic consequences including “the risk of social explosion and a disintegration of cohesion” (Degryse and Pochet 2011: 4).

The political consequences of the crisis

The responses of the EU authorities to the crisis are changing how trade unions see the EU's role as a facilitator of a European system of industrial relations. These changes are particularly visible at the periphery of the Eurozone. The Europhile Irish Congress of Trade Unions, for example, has adopted a surprisingly belligerent tone in its dealing with the EU/ECB/IMF Troika considering the important role it played in the Yes-campaign for the Lisbon Treaty in 2009 (ICTU 2011). After the no-vote of the Irish people in the first Lisbon referendum in 2008, the Vice-President of the European Commission quoted the 1916 Declaration of the Irish Republic in an address to the Irish Parliament in order to highlight the traditional pro-European stance of the Irish people: 'The Irish are known as committed Europeans: even your proclamation in 1916 referred to "gallant allies in Europe"' (Wallström 2008). After the imposition of the harsh austerity measures by the European Commission/ECB/IMF Troika, however, David Begg, the moderate general secretary of Irish Congress of Trade Unions (ICTU), spoke of help "from our gallant allies in Europe" in quite different terms: "Well our gallant allies in Europe have arrived 95 years too late and uninvited and instead of guns to help the revolution they have brought economic weapons of mass destruction" (Wall 2010). When the ITUC leader, who belonged to the most adamant supporters of social partnership and the EU integration process within the European Trade Union Confederation (ETUC), feels compelled to revert to the radical rhetoric of the Irish war of independence in response to the Troika's interventions in Ireland,

then the prospects for European integration and social dialogue must be quite grim indeed.¹ In this climate, it is not surprising that the Irish government did not enthusiastically support the so-called “fiscal compact”, that is the new international treaty proposed in December 2011 by the heads of all EU member states except Britain (European Council 2011). But whereas the Irish government already supported a stricter surveillance of national fiscal and economic policies when it endorsed the six new EU laws contained in the so-called “six-pack on economic governance” in October 2011 (see the next section below), the Irish and European economic and political elites has every reason to be worried about the distinct possibility of a new European referendum in Ireland (Barrett 2011).

Against the hopes of many Keynesian economists, the global financial crisis did not lead to a policy shift away from the corporate pro-business paradigms that has dominated economic policy-making since the late 1970s. Certainly, when the speculative bubbles burst in 2008 and governments were forced to ride to the rescue of failing banks, the free market ideology became a hindrance. But when the debt the public was accumulating to bail out private financial institutions predictably resulted in a budget crisis, the crisis was used as “justification for deep cuts to social programmes, and for a renewed push to privatise what is left of the public sector” (Klein 2008). The intellectual victories of heterodox economists over free-marketeers in September 2008 did not prevent ‘the great American robbery’ (Stiglitz 2010: 109) and the other bank bailouts that followed suit across the world. Moreover, predictions that the subsequent austerity measures will only

prolong the crisis and therefore cause unnecessary sufferings have been ignored (Krugman 2010). Paradoxically, the financial crisis showed that even the imminent failure of a corporation can become an effective political tool for business interests (Erne 2011a). In this context, governments are not only implementing further privatisations of public services and welfare cuts, but also outright wage cuts, working time extensions, retirement age increases, and substantial labour law changes. Although neo-liberal theory had been discredited by the global financial crisis in 2008, neo-liberalism did not die a normal death (Crouch 2011). On the contrary, the political project that aims ‘to re-establish the conditions for capital accumulation and to restore the power of economic elites’ (Harvey 2005: 19) is more present than ever.

The austerity measures that have been imposed across Europe in response to the crisis are without precedent. Wages have been cut in the public sector (for instance by 5 per cent in Spain, 15 per cent in Greece², up to 20 per cent in Ireland, and 30 per cent in Romania) setting corresponding precedents for the private sector. Public services, pensions, and social benefits have been reduced across the EU and retirement ages have been raised. In addition, many governments further liberalised their countries’ labour markets (namely Greece, Spain, Italy, Romania, Hungary, Portugal, and Ireland), for instance, by easing protection against unjustified dismissals, by hollowing out multi-employer collective wage bargaining, or by truncating the fundamental right to strike (Pedrina 2011).

These policies are the result of a coordinated European liberalisation agenda which is meticulously pursued by the Directorate General for Economic and Financial Affairs (DG EcoFin) of the European Commission, the European Central Bank, and the International Monetary Fund. Ever since the Commission/ECB/IMF Troika provided joint financial assistance to Latvia, Hungary and Romania in 2008 and 2009, the Troika systematically included severe austerity and liberalisation obligations in its “rescue” packages for struggling EU countries. Yet, it would be incorrect to assume that these European economic governance prescriptions only apply to the European periphery.

The “six-pack” on European economic governance

After the final approval of the “six-pack” of five regulations and one directive on “economic governance” on 4 October 2011 by the Council of the European Union (2011), the EU member states will not only be notionally obliged to respect the EU guidelines for the economic policies of the member states and the EU.

According to these six new EU laws that came into force after their publication in the EU’s Official Journal on 23 November 2011,³ Eurozone countries that do not comply with the revised EU Stability and Growth Pact or find themselves in a so-called macroeconomic excessive imbalance position, can be sanctioned by a yearly fine equalling 0.2 per cent or 0.1 per cent of GDP respectively. These fines effectively strengthen the Commission’s authority over national economic policy-

making, especially as they will be applied automatically unless the Council is able to veto them by a qualified majority within a period of ten days. According to this new “reversed qualified majority” procedure, member states can be punished by an alliance of the European Commission with a minority of states. Hence, the time in which European economic policy guidelines could be dismissed as “soft law” seems to be coming to an end, regardless of the fate of the new European “fiscal compact” has been agreed in principle by the heads of all EU member states except Britain at the European Council meeting in December 2011. Ironically, the adoption of the six pack’s new European economic governance rules was brought about in part because the British Conservatives endorsed this transfer of power to Brussels in the European Parliament, partly because the six-pack laws passed through the EU legislative process largely unnoticed by national media, and partly because the fines will only apply to Eurozone countries.⁴

The “six-pack” is based on Article 121.6 TFEU according to which EU member states’ fiscal and macroeconomic policies shall become subject to “multilateral surveillance procedures”. As stated in the introduction, a European coordination of national economic policies may be a reasonable proposition. Wage moderation has held sway in all Eurozone countries during the past decade, as wage increases did remain below the distribution-neutral margin of inflation plus productivity increases almost everywhere. Nevertheless, in some countries – such as Germany – wages had been restrained much more severely than elsewhere (Erne 2010). This contributed substantially to the growing economic imbalances

within the Eurozone, as self-critically acknowledged by the Germany trade union economists, Klaus Busch and Dierk Hirschel (2011).

Incidentally, the European Metalworkers Federation (EMF) and the European Trade Union Confederation (ETUC) adopted wage bargaining coordination benchmarks for its national affiliates as far back as 1999 and 2000 respectively in order to avoid the adoption of disruptive beggar-thy-neighbour wage policies. Yet, the ETUC/EMF bargaining guidelines failed to achieve their goals, in part because of their non-binding and technocratic character (Erne 2010). In turn, the idea of strengthening the EU's economic policy competences in all areas including wage policy has also been supported in principle by social democrats, trade unionists, and Euro-Keynesian economists (Delors, Fernandes, and Mermet 2011; Busch and Hirschel 2011; Collignon 2010).

On the opposite side of the political spectrum, the Great Recession also seems to have triggered learning processes, as employers, central bankers, British conservatives, and German liberals alike now seem to accept the hitherto unthinkable suggestion of a *gouvernement économique européen*. Until very recently employers and business-oriented policymakers emphatically dismissed any idea of coordinated economic governance at an EU level, especially in the area of wage policy (Leonard et al. 2007). Business groups believed that any coordination attempt would only be in the interest of labour, because market competition within the Eurozone would – according to textbook neo-liberal

economics – automatically lead to the desired downward convergence of wage rates and wage setting structures across the Eurozone. But when existing markets in the Eurozone caused economic imbalances rather than convergence, business interests had no problem with replacing the invisible hands of the market with calls for authoritative EU structures in order to tackle Europe’s economic and structural problems. In contrast to its Euro-Keynesian supporters, however, the emerging *gouvernement économique européen* should not be conceived as a democratic government in the classical sense, but rather as a regulatory agency that is monitoring and enforcing defined economic policy rules.

European economic governance and democracy

Supporters of so-called regulatory policy-making argued long ago that leaving economic policy to agencies that are effectively insulated from domestic popular pressures and interest associations, such as independent central banks, would enhance the quality of policy outputs (Hayek 1997). The disregard by leading EU and ECB officials for democratic procedures is indeed striking.. On the 3 August 2011, for instance, Mario Draghi and Jean-Claude Trichet (2011) urged the Italian government to immediately implement a long-list list of “business friendly” measures by a single executive order (*decreto legge*). The list not only included calls for outright wage cuts, a hollowing out of Italy’s multi-employer collective bargaining structures, the end of the Italian labour law provisions that protect employees against “unjust dismissals”, the dissolution of Italy’s provinces, the

implementation of “business friendly” performance indicators in Italy’s public services (including the judiciary), and so forth, but also “the full liberalisation of local public services (...) through large scale privatisations”, ignoring the fact that 95.5 per cent of Italian voters had rejected the privatisation of local water services in a valid national referendum less than eight weeks earlier.

Noticeably these leading European central bankers believe that democratic decisions that they deem to be wrong ought to be overruled. Indeed, Jean Claude Trichet is actively propagating a new institutional framework within which European authorities – namely the Council on the basis of a proposal by the Commission, in liaison with the ECB – can take decisions that are directly applicable to any national “economy” of their choice (Trichet 2011). Hence, theories and concepts of public law do change under the impact of political events, as Carl Schmitt (1985), the leading intellectual of the German *Führerstaat*, had argued during an earlier systemic crisis. Even in Switzerland, which is frequently portrayed as the world’s most direct democracy, the UBS bank bailout had been adopted though an emergency ordinance which effectively shielded the deal from being a subject of parliamentary and popular scrutiny (Erne 2011b). As Crouch (2009) warily predicted, there has been a decline of democracy in economic policy-making in the wake of the global crisis. The implementation of European multilateral surveillance procedures by means of the “six pack” on European economic governance is no exception. This raises a crucial question:

Who defines the content of the European guidelines in the area of economic governance?

Economic policy choices directly impact on the life chances of all workers and citizens. For this reason, one would expect the corresponding European policy guidelines to be shaped by European citizens via their directly elected legislators or – in case of wages and working conditions – by the representative organisations of capital and labour. Yet, neither the European Parliament, nor national parliaments, nor social partners can formulate the broad economic policies guidelines for the Member States and the Union. Article 121.2 TFEU merely states that “the Council shall inform the European Parliament of its recommendation”.

Nevertheless, it would be wrong to blame the Treaty alone for this democratic deficit. Incidentally, the European Parliament’s right-wing majority failed to push for co-decision rights in this area, although the European Parliament would have had the power to veto the adoption of the “six-pack” according to Article 121.6 TFEU. Instead, the European Parliament empowered the European Commission to design and operate multilateral surveillance procedures largely undisturbed of democratic influences. Although the “six pack” is establishing serious sanctions against noncompliant member states, the six new EU laws on economic governance fail to define clearly several key terms. What constitutes, for example, an “economic imbalance” in the Euro zone? What exactly harms the “proper

functioning of the economy of a Member State”? Article 2 of the “Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances” does not answer these questions at all:

For the purposes of this Regulation:

- a) ‘imbalances’ means any trend giving rise to macroeconomic developments which are adversely affecting, or have the potential adversely to affect, the proper functioning of the economy of a Member State or of economic and monetary union, or of the Union as a whole;
- b) ‘excessive imbalances’ mean severe imbalances, including imbalances that jeopardise or risk jeopardising the proper functioning of economic and monetary union.

These legal definitions are so all-encompassing that the Commission is able to bend the meaning of the regulation’s concepts as it pleases. In addition, the regulation also counterfactually implies that there are “proper” and “improper” rather than let’s say neo-liberal business-friendly or Euro-Keynesian labour-friendly economic policies. The technocratic assumption that there are only “good” or “bad” policies is also at variance with the anti-totalitarian core principles of democracy and social dialogue. Whereas the regulation assumes that there is a general truth that enlightened elites are capable to identify, the principles of liberal democracy and social dialogue acknowledge that what may be good for one person may be bad for another. Therefore, democracy and social dialogue are

above all conflict resolution mechanisms that are at odds with a totalitarian free market utopia that assumes that there is only a single truth in economic policy making (Supiot 2012).

No wonder Jürgen Habermas, who is arguably one of the most outspoken supporters of a democratic European Union, is very worried about a situation in which EU experts rather than “parliaments (and trade unions where applicable)” (Habermas 2011: 65, my translation) – are determining the socio-economic priorities for years to come. Yet, one question remains unanswered. Why did the right-wing absolute majority of the European Parliament MEPs – across all member states from Germany and Finland to Ireland and Greece (see: www.votewatch.eu) – nevertheless approve the “six-pack”? Maybe the centre-right reduced the scope for democratic politics in economic policy making, because of its confidence that the adopted authoritarian and technocratic procedures will produce the desired policy outcomes. It is indeed noteworthy that similar majorities have delegated legislative powers to executives in the past, notably during the profound economic and social crisis of the 1930s.

European economic governance and wages policy

Article 4 of the Regulation No 1176/2011 on the prevention and correction of macroeconomic imbalances also obliges the Commission to design a scoreboard

of quantitative economic and structural indicators to evaluate the economic policies of EU member states. In so doing, the Commission is entitled to include any indicator which it deems necessary and is free to set whenever appropriate the lower and upper limits of any measure included in the scoreboard. In addition, the Commission will guide national fiscal and economic policy making through a broad spectrum of additional instruments set out in this Regulation and the five other EU laws that are part of the six-pack, which range from country specific in-depth reviews, corrective action plans, and surveillance visits. The Regulation No 1176/2011 on the prevention and correction of macroeconomic imbalances also contains a list of indicators that ought to be included in the scoreboard. This includes measures belonging to policy areas that are explicitly excluded from the competencies of the European Union, such as wages policy. Certainly, the ETUC successfully lobbied the European Parliament to add a paragraph to ensure that the Commission's corrective action plans for incompliant member states issued under this Regulation shall respect the bargaining autonomy of the social partners:

The application of this Regulation shall fully observe Article 152 TFEU, and the recommendations issued under this Regulation shall respect national practices and institutions for wage formation. This Regulation takes into account Article 28 of the Charter of Fundamental Rights of the European Union, and accordingly does not affect the right to negotiate, conclude or enforce collective agreements or to take collective action in accordance with national law and practices (Article 1.3 of the Regulation

No 1176/2011 on the prevention and correction of macroeconomic imbalances).

In turn, however, the Commission and the ECB have demonstrated – most notably in their dealings with struggling Euro zone countries – how the tension between their demands for increased wage flexibility on the one side, and the bargaining autonomy of trade unions – as enshrined in national constitutions and industrial relations acts – on the other can be solved:

In most Member States, wages are formed in a collective bargaining process without formal involvement of governments. Nevertheless, policy-makers can affect wage setting processes via a number of ways, including the provision of information or wage rules, changes to wage-indexation rules and the signalling role played by public sector wages. In addition, reforms of labour markets should also contribute to make wage setting processes more efficient (European Commission 2010, 15).

If one reviews the “memorandums of understanding” in the area of wage negotiations that the EU/ECB/IMF Troika is imposing across Europe, there cannot be any doubt about what is actually meant by making wage setting processes more efficient. In the Irish case, for instance, the Troika’s “memorandum of understanding” contains very clear commitments in this regard, namely a “review of sector specific minimum wage agreements, with a view to their elimination” (IMF 2010: 27). Hence, trade unions should lose their capacity to set binding

sector-wide wage norms, as incidentally already advocated by leading bankers at a French and German businesses roundtable on the European Monetary Union in 1997 (Erne 2010: 54)

Conclusion

Although the adoption of the six-pack has significantly reinforced the EU authority over national economic policies, the EU Treaties are still limiting the ability of EU institutions to determine the content of national economic policies, especially in the area of industrial relations. European economic governance still heavily relies on “soft” enforcement mechanisms, such as peer pressure and the naming and shaming of those countries that do not comply with the EU’s deregulation and liberalisation agenda. Nevertheless, Klaus Dräger’s assessment of the economic policy responses across Europe has shown that the so called ‘soft-law’ mechanisms of European economic governance proved to be much more effective than many scholars of industrial relations and EU integration had initially thought:

By skilfully playing this game of ‘labelling’ national budgets and economic policies, the EU authorities successfully put ‘market discipline’ on their side in order to push through austerity, further liberalisation and

privatisation. We have witnessed this already in the cases of Greece, Ireland, Portugal, whose governments first attempted to settle their sovereign debt problems on their own. But when their ratings were going down and the risk premiums to re-finance debt went through the roof, they finally sucked up to the Commission's and Council' orchestrated campaign that they must submit themselves to an EU-ECB-IMF led rescue operation. The same is true for the launching of the series of austerity packages of Spain in 2010/2011 and the packages of the Italian government in 2011 (Dräger 2011)

It is widely accepted that the European economic and financial crisis has been caused primarily by reckless lending practices tolerated by the ECB, and by the huge bank bailouts approved by the Commission to protect the banking system against 'systemic' capital market risks. But whereas support for banks and their bondholders, worth hundreds of billions of Euro, is apparently compatible with the internal market – in spite of Article 107 TFEU that forbids state aid – EU economic policymakers increasingly target member states for their allegedly rigid labour laws and industrial relations practices. Unsurprisingly, however, no member state has been criticised for failing to provide Dutch or Danish levels of unemployment benefits to protect workers against labour market risks, despite the EU's official "flexicurity" discourse (Erne 2011c). In today's Europe, trade unions are struggling to cope with the drastic results of the crisis for their members. They have differed in their approaches, with some militant trade unions organising numerous general strikes, while others more or less reluctantly went

along with unprecedented attacks on their members' wages and working conditions (Erne 2011b). These are early days, but one thing is clear. The time now seems set for one of increasing conflict, paradoxically also because conflicts of interest have no place in the technocratic frame of reference that governs European economic governance.

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¹ It is noteworthy that David Begg deliberately chose these words in his concluding speech at the national ICTU rally of approximately 100.000 demonstrating trade unionists before the General Post Office in Dublin that used to be the headquarters of the armed Irish 1916 Easter Rising.

² Incidentally, at the time of writing the Greek parliament discussed a series of new austerity measures requested by the Troika, including new wage cuts in public utility companies (35 per cent of the 2009 wage level).

³ Official Journal of the European Union, L 306, 23.11.2011, pp.1-52.

⁴ One of the six reports by means of which the European Parliament endorsed the “six-pack” was drafted by the British Conservative Party MEP and former JP Morgan banker Vicky Ford: REPORT on the proposal for a Council directive on requirements for budgetary frameworks of the Member States (COM(2010)0523 – C7-0397/2010 – 2010/0277(NLE)). Committee on Economic and Monetary Affairs. Rapporteur: Vicky Ford.