

Coordination vs Regulation. State's Functions in Industrial Relations: The Cases of Norway and Spain

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Sole Truyols, M., 2019. Coordination vs Regulation. State's Functions in Industrial Relations: The Cases of Norway and Spain. *Oñati Socio-legal Series* [online], 9(1), 128-144. Received: 07-02-2018; Accepted: 09-07-2018. Available from: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1016>



Abstract

Admittedly organized interests are a relevant element in shaping national industrial relations systems. This paper, however, focusses on the functions of the state as a factor limiting or enhancing the ability of social actors to participate in the design of these national systems. It compares the role of the state in Norway and Spain as far as regulation and coordination are concerned. The coordination function is compared at two different levels: bipartite cooperation and tripartite cooperation seeking to understand how coordination at the upper level might influence the lower level. Regulation is then compared in its effects on the interactions among the parties and their autonomy as the fundamental principle of industrial relations.

Key words

Coordination; regulation; the role of the State; autonomy of the parties

Resumen

Sin duda alguna, los intereses de clase son un elemento fundamental en la configuración de los sistemas nacionales de relaciones industriales. Este artículo, sin embargo, adopta la perspectiva de las funciones del estado como factor que limita o refuerza la capacidad de los actores sociales para participar en el diseño de los respectivos sistemas nacionales. El estudio compara el papel del estado en Noruega y en España en lo que se refiere a regulación y coordinación. La coordinación se compara a dos niveles diferentes: la coordinación bipartita y la coordinación tripartita con el fin de entender de qué manera la coordinación en el nivel superior influye en el nivel inferior. A continuación, se comparan los efectos de la regulación sobre las relaciones entre las partes y su autonomía como principio fundamental de las relaciones laborales.

Palabras clave

Coordinación; regulación; papel del Estado; autonomía de las partes

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1. Introduction

In his Industrial Relations Systems theory, John T. Dunlop (1958) shows that an industrial relations system involves three actors: state, employers and employees and/or their representatives. These relations are shaped by a network of rules governing three contexts: technical, market and, power-status (Rönmar 2010, 171) in which the state should, ideally, play a facilitating role through regulation and administration agencies for the labour market actors to develop their activities.

In most recent times, the transversal purview of industrial relations has been captured by the literature in the Varieties of Capitalism that accords the state a function of coordination whereby the ability of all actors to interact is modelled (Martin and Thelen 2007, Schmidt 2009). In this approach, coordination also involves the willingness of the state to share a part of its political space with labour and capital.

Coordination and regulation as state functions in industrial relations are not necessarily self-excluding. This paper claims that instead they might be self-complementing provided there exists an institutional background supportive for the state to lend part of its political and regulatory functions to the social actors. In so doing, the state needs to get involved in coordination purposes so to ensure that the system works in integration.

To this purpose the paper compares coordination and regulation dynamics in Norway and Spain. It is organized as follows: The coordination function is analysed at two different levels; first section refers to the upper level where the interactions among all three actors should occur at national scale. It is here where the willingness of state to share its political space plays a relevant role. It is also at this level where the available state's administration agencies permit to assess the role of the state in facilitating coordination among the social actors. Second section analyses coordination at the lower stage where the main interaction occurs between social actors. Here the state's function of coordination is less necessary but still its presence is a prerequisite in the form of lending its normative capacity in favour of collective bargaining as a way of expressing the relational structure of the parties in the labour relation. The regulatory dynamics are dealt with in the third part that compares the legal framework in both countries as far as labour matters are concerned and examines the involvement of the state in supporting self-regulation among labour and capital. The final part critically assesses the functions of the state in the two countries under comparison and provides some concluding remarks.

2. Different levels of coordination

Coordination operates in different directions, horizontal and vertical, and at different levels: from central to workplace. Between social partners (bipartite coordination), between these and state (tripartite coordination), between state's bodies, between organizations and their subordinates, between members of the different subordinate organizations and between members of the same organization. Coordination's distinctive feature is that it creates the bottom-top and top-bottom relational dynamics necessary to ensure the effective functioning of the system. Therefore, it requires an organizational structure allowing multilevel coordination, which is the cornerstone element for fully developed negotiation processes and agreements to achieve their targets.

This notwithstanding, coordination primarily depends on the willingness of the actors to cooperate, hence to ensure effectiveness at all levels the involvement of the state is a must. On the one side, unfolding a large public structure that supports the interaction between social partners is essential to cope with the new challenges of a post-industrial economy. When adjustments are required to weather economic difficulties, state involves as a third negotiator in the table with business and labour together (Schmidt 2009). On the other side, coordination inevitably implies a process of integrating employers and unions into national policy-making so that they can

“make highly organized, collective demands for public policy and, in turn, to help with the implementation of policy outcomes” (Martin and Thelen 2007).

Tripartite coordination might be seen as a win-win game: First and foremost, it allows the state to incentivize social order while in return unions grant a certain degree of *securization* for workers and their families with the consent of employers. Thus, the involvement of market actors under the umbrella of the state helps to create a climate of social peace and of better understanding and acceptance of measures adopted. Such a climate also might contribute to boost productivity: as long as workers feel relieved of their day to day subsistence concerns, stress and conflict reduce.

Yet, tripartite coordination alone does not suffice. Either for the agreements or pacts reached at the national level to materialise or information exchange to produce effects, bipartite coordination is a must. At this lower level, the ability of labour partners to define the collective bargaining structure is highly dependent upon how their autonomy is respected and enhanced by the state.

2.1. Tripartite Coordination for Balancing National Socio-economic Interests

To a large extent coordination in Norway is premised on a shared political culture of norms and mindsets based on the idea that the small open economy of the country, highly dependent on exports and exposed to the fluctuations of the international markets requires coordination of macroeconomic policies, wage setting and social and labour market policies to easily adapt to new challenges (Bieler 2012, Mailand 2012, Nergaard 2014, Dølvik *et al.* 2014, Bergene and Hansen 2016).

A similar ideology or culture does not obtain in Spain mainly due to its political structure “where party competition exerts a disciplining role in the system” (Molina and Rhodes 2008, 18). Party interests in Spain predominate over national concerns creating a vicious circle: the governing party does have the monopoly of power while the state is subservient to the ruling party with whom the most powerful interest groups establish clientelistic relations. Other interest associations, unions and employers’ organizations are fragmented and divided with weak force to articulate a plausible structure able to counteract the correlation of forces that play at the political level. This context impedes the existence of shared national targets for which coordination would be meaningful while at the same time acts as a break to innovation and to socio-economic improvement.

Tripartite coordination in Norway is fundamental to ensure that the interplay between macroeconomic governance, public welfare services and organized working life converge in balanced societal interests. To this end, employers organizations and unions sit on a permanent basis in a number of public committees that handle matters of relevance for working life and social issues, i.e. the government’s so-called “Contact Committee” (Kontaktutvalget), established in 1962 for the coordination of wage settlements, the *Arbeidslivsog pensjonspolitisk rod*, established as a forum between the government and the labour market parties for dialogue on labour market and relevant pension issues, the Technical Calculation Committee for Income Settlements (Teknisk beregningsutvalg for inntektsoppgjørene – TBU) or the National Wages Board (Rikslønnsnemnda) in charge of settling disputes on interests through arbitration. By placing unions and cross-class coalitions at the core of the national political economy, the Norwegian system facilitates the understanding of collective interests that, on its turn, paves the way for horizontal coordination – across industries and sectors – and also enables unions and employers’ organizations to shift and coordinate negotiating strategies vertically, i.e. between the levels of industry/sector and companies (Dølvik 2016).

In Spain, tripartite coordination lacks of strong, institutional mechanisms allowing for social partners to participate in policy making on a stable basis. Only one permanent institution with such a purpose can be found: the Economic and Social Committee (Comité Económico y Social). On top of this, tripartite pacts are subject to the

initiative and the interests of the government both in terms of their activation as well as for the engineering of political exchange (González Begega and Luque Balbona 2015, 5). Hence, tripartite cooperation has followed an erratic path in the last 40 years alternating periods of dialogue with others wherein negotiation simply does not exist: two short-term agreements were signed in 1982 and 1984. After that, dialogue did not resume until 1996-1997. It was then halted again until 2004 yet this time continued up to 2008. Only in 2011, the parts engaged in new negotiations that were discontinued until 2014.

Bipartisan agreements, despite they are more frequent, come to the fore only in cases of weak governments – regardless of their colour – seeking unions' *ad-hoc* support for reforms (Hamann 2012). Therefore, these government-unions pacts at the national level are characterized by the same structural weaknesses as tripartite agreements: irregularity and specificity of contents depending on the needs to be addressed.

There are different arguments explaining the reasons of this irregular and underdeveloped structure of the tripartite coordination in Spain. Meardi and collaborators (2015) consider that tripartite pacts took a legitimising function during the transition rather than an instrumental one¹ and this path dependency has drawn the main features of the present situation. Martínez Lucio (2017, 291) emphasises the contradictory nature of state projects and the vacillation or ambivalence in state trajectories as salient factors. And, Molina and Rhodes (2011) point at the mutual strength perception of the three actors as an important factor that influences the parties' willingness to engage in tripartite negotiations and determines its outcomes.

It is outside the purpose of this paper to delve into the causes of the failures in the Spanish tri or bipartisan dialogue. It suffices here to highlight that dialogue and sporadic pacts are not enough for coordination. The latter requires of the ability to implement and manage a stable network that can efficiently cope with emerging changes. In this sense it can be affirmed that tripartite coordination is not institutionalized in Spain as interest groups at national level adopt decisions tailored to their narrow interests without collective targets in mind frustrating further chances for autonomous coordination at the lower levels. The endemic intermittency of tri and bipartisan pacts (Sola 2014) finds explanation within this particular environment where consensus and coordination mechanisms are not the priority at all.

2.2. Bipartite Coordination as Autonomy of the Parties

Bipartite coordination is premised on high degrees of organizations' density (Traxler 2006) to spread the information and facilitate the understanding of broad objectives. In Norway, employers' membership was 75% in 2013 while in Spain it only reached 36% in the same period, according to the Eurofound Working Life Country Profiles (see Eurofound 2018). As far as unionization rates are concerned, the Spanish system is affected by a systemic hindrance: the low unionization degree has been steady low along years, ranging from 13.5% in 1980 to 16.9% in 2013. On its turn, unionization rate in Norway reached a peak level of 55.1% in 2003 and since then it has progressively receded to 52.1% in 2013, although it tended to increase to 54% in 2014 (Nergaard 2016). Looking at the OECD Trade Union Density statistics (OECD 2018b), this average is low compared to other Nordic countries, i.e. Sweden 67.7%, Denmark 66.8, Finland 69%, Iceland 85.5% in which the steady decline of unionization can also be easily traced, but still remains high compared to other European countries. The decline in Norway might be linked to the changes in the individual interests of unions' members regarding income distribution making them less supportive of the national welfare policies (Pontusson 2013, Movitz and Sandberg 2013). Still, strong workplace organization, the existence of national confederations

¹ Following the concepts elaborated in Traxler, cited in Meardi *et al.* 2015, 2.

and the absence of a politically fragmented union movement contribute to membership resilience (Movitz and Sandberg 2013).

Coordination at company level consists of several components: wage and working conditions' negotiation, workers' participation in the development of the company and the like. In Norway this is possible thanks to the existence of a *subinstitutional* organization inside the respective unions and employers' organizations to commit their subordinate levels and ensure compliance (Nergaard 2014). This hierarchical organization is based on mutual trust and good faith values that prevail over the individual autonomy meaning that lower levels will not deviate by unilateral decisions. The strong ties which exist between unions' officials and company representatives allow trade unions to articulate the up-bottom process (Marginson 2015) of coordination without failures.

On its turn the lower level, typically represented by a local union leader elected by the members of the local union, has enough autonomy and unions' support to commit the workers at the undertaking or company to a collective effort on behalf of the other members (Barth *et al.* 2014). Therefore, the lower level does not only behave as a receiver of instructions, it also emerges as the source granting the functioning of coordination or as the bottom-up pillar underpinning the overall system. Its main merit is not only to secure the application of agreements negotiated at superior levels, but also that it creates routines for dialogue. In Norway, this is specially valued by employers and workers alike as a way to bring expectations in line with each other (Bergene and Hansen 2016). Both are interested in the continuity of business, and company level is the appropriate ground to involve workers in: problem solving, expertise and knowledge transfer as well as to their commitment to strategies of future and in keeping industrial peace.

The purpose of bipartite coordination, either at national, sectoral, company or workplace level is to negotiate and regulate the labour relation through a system of collective bargaining that reflects the autonomy of the parties. Building such a system rests on three important pre-conditions: a legal framework, an institutional framework, and an industrial relations practice (Hendrickx 2010). Two dimensions can be identified in collective bargaining, the level of centralization and the level of coordination. The first refers to the bargaining level at which collective agreements are formally concluded while the second relates to the synchronization of the distinct bargaining units across the economy for the sake of macro-economic-social goals. From the 1970s decentralization has gradually imposed in most countries, but this does not necessarily imply the lack of coordination. Since "centralization is just a special form of coordination" (Traxler 2003), forms of coordinated decentralized collective bargaining should be possible.

Within the foregoing context of high coordination Norway has developed a particular form of coordinated decentralization² of collective bargaining at three levels, represented by a hierarchy of agreements. At the highest level, bargaining takes place between the general branches of employers' confederations (i.e. the Confederation of Norwegian Enterprises – NHO) and a trade union (such as the Norwegian Confederation of Trade Unions – LO – or the Confederation of Vocational Unions – YS) with the aim to regulate permanent and general matters between the parties. These general agreements define the main targets and lay down principles and procedures (Løken *et al.* 2013).

Second bargaining level supplements the first. It often applies to sectoral industries or special groups. The system is completed at undertaking³ level where specific rules on pay rates, representation, cooperation and co-determination are concluded (§ 9-

² For an opposing opinion see Vartiainen 2011 (p. 335 and ff), who claims that the system has never been decentralized.

³ Note this is not company level, but still a level below. Although same basic agreement applies to all company sites, different collective agreement may be concluded at different undertakings.

2 Basic Agreement 2014-2017 NHO-LO). In order to grant that the commitments at the first level are respected, each level of negotiation must always comply with the more general agreements concluded at the superior level as it is explained in the Judgment of the EFTA Case E-10/14 *Enes Deveci and Others v Scandinavian Airlines System Denmark-Norway-Sweden*.⁴ Even that the parties at the lower levels are not legally bound to follow the terms of the agreements concluded at the superior level, the principle that “collective bargaining really is about mutual negotiations, not unilateral commitments” (Bruun 2009) applies. Obvious as it may appear, this affirmation contains the internal logic of the collective negotiation process; none of the parties will substantially separate from what has already been agreed.

Bipartite coordination in Spain is affected by the fragmentation of organizations and by the low unionization rates that impede to articulate a united front representing each class- interests. Since every group, small or big, seeks to meet its particular benefits, no mechanisms for autonomous coordination at peak level have been developed. On its turn, this has negatively influenced the top-bottom relational dynamics for building of a positive coordination at company level where the system lacks the necessary micro-foundations of class-coalition that can support a similar partnership at the sectoral/national level. Such a vicious circle “impedes bottom-up dynamics of cross-class negotiation and incorporation” (Molina and Rhodes 2008, 28) that would serve to create the necessary coordination structure facilitating negotiation and understanding.

In the above context, it should not come as a surprise that Spain misses well-defined mechanisms articulating bargaining across levels. Sectoral and company have been the predominant negotiation levels. The former is further divided by geographical areas: local, provincial, regional or national, with the upper level taking precedence. However, the absence of strong organizations that can articulate coordination patterns through these levels make centralized negotiations very difficult. Unions have sought to reform the system with three main aims at the forefront: “an extension of the regulatory scope of collective bargaining; a formalization of the rules connecting levels within the system; and the consolidation of the national sector as the predominant bargaining level” (Molina Romo 2005, 22). Nevertheless, their feeble mobilization power, the non-existence of a united counterpart with whom the claims could be negotiated and the presence of a state that relies upon unilateral legislation to organize collective negotiation, have prevented major changes.

Any chances to maintain or improve centralized bargaining in Spain have, since 1994, been progressively curtailed through different legal labour reforms that introduced company as the preferred bargaining level. In 2012, the legal inversion of the favourability principle – which holds that lower levels can only improve conditions agreed at higher levels (Keune 2015) – come into effect. *De facto*, state’s regulatory function has operated as an instrument for wage bargaining decentralization by explicitly introducing the precedence of company level in Art. 84.2 of Real Decreto Legislativo 2/2015 (The Spanish Workers’ Statute). This change, in which neither unions nor employers were involved, shows not only the coordination problems but also how the political structure may pervade the industrial relations systems. In the one hand, bargaining decentralization erodes the role of unions and the substance of the right to unionization. On the other hand, decentralization also goes in detriment of small employers’ interests⁵ for whom centralized bargaining was a form of protection (Cruz Villalón 2012, Marginson 2015).

Despite the voluntary nature of collective bargaining in Spain, mandatory minimum wage applies, and increases are set by law unilaterally by the party in office according to the macroeconomic development of the country. The social partners are free to

⁴ It is not surprising that the structure of collective bargaining is explained in case-law, since the normative function of collective agreements is a matter of law in the Scandinavian context of industrial relations.

⁵ The 99.88% of Spanish companies are small or medium companies at the end of 2015. See: Ministerio de Industria, Energía y Turismo 2016 (in Spanish).

negotiate higher salaries at whatever level, but in the context of company bargaining, increases are difficult to achieve since employers know that the same conditions will not necessarily be followed by other employers, thus creating a competitive disadvantage.

Norway does not have a statutory minimum wage nor mechanisms for extension of collective bargaining agreements⁶ but due to a well established set of norms of equal treatment, there has been a long continuity of wage equality and a certain measure of wage constraint that has played an important role in macroeconomic management (Mjøset and Cappelen 2011, Løken *et al.* 2013) and social equality. This has been possible thanks to the social partners' commitment to country's socio-political economy and has been facilitated by the permanent flow of information from the state and the ability of the labour market parties to impose the collective agreements on non-organized enterprises (Nergaard 2014).

Wage formation guidelines are set through tripartite cooperation at national level in order to maintain national economic competitiveness (Ministry of Labour and Social Affairs 2014). To this purpose Norway has established a specific institution: *Det tekniske beregningsutvalget for inntektsoppgjørene* (TBU) – The Norwegian Technical Calculation Committee for Wage Settlements – formed by experts, administrators and representatives of the labour market parties whose main function is to provide the actors of wage bargaining with the national, uncontested data where wage setting must anchor. The TBU calculations take into account, among others, monetary policy, labour market prospects, welfare state, exchange market indicators for the Norwegian currency and other indicators. The TBU comes up with a *wage corridor* which is not mandatory since wage setting does correspond to the parties' decision, however they generally stick.

Wage bargaining takes place at two levels: central/sectoral and local, in the form of pattern bargaining. It starts at the "export industry" which is considered the most affected by international competitiveness. At this level, the parties involved agree that wage negotiations should be carried out on the basis of four established criteria: the profitability, productivity, future prospects and competitiveness of the company. Once negotiations in this sector are concluded, the other sectors, including public sector, will initiate their own wage bargaining, mostly at undertaking level, within the boundaries marked by the export industry (Nergaard 2014).

The current trend of wage decentralization that affects Norway has made that "the substance of collective agreements concluded at national sectoral level has shifted from detailed regulation to framework agreements, leaving generous leeway for negotiations at company level" (Malmberg 2002). In all, decentralization may not be the concept that best defines wage setting mechanisms in Norway. The system rather refers to a certain degree of wage differentiation negotiated at company level within established limits (Vartiainen 2011) but in labour terms, it evidences two comparative advantages: on the one side, it balances economic and labour interests with the social horizon in mind. On the other side, closely related to that; it restrains high wage differentials at the general level and within occupations, leading to more equality.

3. States' regulatory function: its effects on the parties

Bipartite cooperation is enhanced through the regulatory function of the state whereby acting as an enabling mechanism when the state uses its institutional power to arbitrate among economic actors and to facilitate their activities (Schmidt 2009). Within this enabling role the state leaves unions and employers' organizations to jointly administer the rules through collective bargaining, while acting as an observer and grantor of the production system's nonmarket coordinating institutions. In this sense, the state lends public authority to the collective agreements reached by social partners through legislative and administrative provisions. In other words, the

⁶ Except for the Act on Collective Agreements enacted in 1994 but has never been applied since.

normative activity of the states is devoted and limited to establish a regulatory framework whereby negotiation processes are governed (Hemerijck 2009). In fact, this is the very principle for industrial relations governance stemming from the right to collective bargaining. *A contrario*, regulation plays a hindering role when the state uses its institutional power to interfere in the negotiations between employers and workers, or when it does not adopt active actions to encourage and facilitate the interaction between labour market actors.

Labour regulation serves as a furtherance mechanism for bipartite coordination in Norway. Legislation, in particular Chapter 1, Section 1-1 LOV-2005-06-17-62 (The Working Environment Act – WEA), establishes the minimum floor of working conditions from which labour market actors are free to negotiate and organize their relations and, on the other side it lays down the mechanisms for labour disputes settlement in LOV-2012-01-27-9 (The Labour Disputes Act). Any of those are at odds with the principle of the autonomy of the parties (Bergene and Hansen 2016) since the latter retain their self-regulatory capacity through normative binding agreements. Instead, regulation provides two advantages for the system to work as an integrated network; on the one side granting a framework of legal certainty for the parties to negotiate on equal footing, and on the other side it contributes to industrial peace. Moreover, sharing normative spheres between the state and labour partners limits unilateralism to all parties creating a power-balanced structure where the opposing class interests necessarily will come to converge.

An example may serve to exemplify bipartite coordination and the regulatory function of the state in its enabling role. In 2005, the Norwegian main union – LO – called to negotiate collective agreed occupational pension schemes. But the employers' organization – NHO – opposed on grounds that those might create a potential competitive imbalance between firms with and without collective agreements. Employers also feared that collective agreed pensions might lead to their loss of control and autonomy over pension arrangements to unions. Instead, employers proposed company-based schemes as they could be better adjusted to the special needs of the firm and avoid running parallel schemes in a single company (Trampusch 2013). The failure of negotiations made the parties to address the government with the request to establish a mandatory occupational pension scheme. Regulation was the way to eliminate employers' fear and satisfy unions' petitions whereas the state accomplished its institutional role of arbitrating among the parties' interests.

The Spanish state's regulatory activity in industrial relations is at the same time both, a need and a consequence of the institutional context. It is a mechanism to compensate the lack of coordination at all levels (Molina Romo 2014). Likewise, it reflects the class-power imbalances: regulatory decisions are taken without the involvement of the social partners increasing the disconnection between interests' associations and the state (Molina and Rhodes 2007) while making negotiations between the labour parties difficult, even unnecessary (Fernández Rodríguez *et al.* 2016).

In 1994 the first relevant liberalization of the labour market was the result of the government's decision. Basically, the reform extended the causes for dismissal, but in terms of internal flexibility, the prevalence of collective agreements' provisions when applicable was respected. In 1997, unions and employers' organizations reached an agreement regarding the structure of collective bargaining that the government endorsed and was subsequently enacted by law. This point, that usually goes unnoticed, is of relevance for the analysis of the role of the state in the Spanish industrial relations context as it illustrates some of the problems embedded in the system: On the premise that a pact or agreement is binding for the signatories only, its transformation into law becomes a serious interference in the autonomy of the non-signatories but also for the parts that reached the agreement since they will no longer be able to modify or terminate it. In other words, the law limits the negotiation power of the social actors, negatively affecting unions' vindication capacity.

This action can hardly be seen as an attempt of institutionalization of social dialogue. Namely, the building of an institutional background for the parties to negotiate and coordinate their activities requires the continuous development of mechanisms enabling such functions until these become integrated in the system. Instead, the following legal reforms affecting matters of collective bargaining that took place in 2010 and 2011, set the trend of a gradually increasing intervention of the state. In 2012, a national agreement was signed between employers and unions covering the structure of collective bargaining, setting coordination and implementation rules that would govern this labour institution in the future. Two weeks later, the government decided to repeal that agreement through urgency legislation that left ineffective most of the terms negotiated and agreed between the social partners (Rocha 2014). Even though this unilateral and broadly contested decision was the consequence of EU's pressures it needs to be interpreted also within the industrial relations context in Spain wherein the unilateral decision of the state in the form of regulation is frequent and impedes the chances to establish mechanisms for coordination.

In practice, regulation does also limit the ability of unions to strive for workers' interests. The end of the dictatorship brought their legal recognition as relevant actors in the Spanish political and social life, as provided for in Art. 7 of the Spanish Constitution. However, unions were deprived of own resources to carry on the new responsibilities – consider that they were banned for 40 years and that no unionisation culture existed. A political agreement to provide public economic support to the unions, starting from 1976 (Magaña Balanza and Rico Letosa 1997) was subsequently laid down into the legal order by different provisions. A decision to cede to the most representative unions the assets confiscated during the dictatorship, adopted in 1986 by Ley 4/1986 (Act on the cession of the accumulated trade unions' assets), was aimed at closing the gap but created a conflict about the legal and equitable titles of the assets to which also other organizations, including the employers' organizations claimed.

The problem was two-fold: under the former regime employers were obliged to finance the only existing union created by the state. Upon its dissolution under the new regime, employers sought to recover their share. On the other side, other less representative unions considered themselves excluded from the deal (Magaña Balanza and Rico Letosa 1997, De la Villa Gil 2008). Complaints were filled with the ILO Committee on Freedom of Association who suggested that the solution should be based on the principle that assets should be used for the purpose for which they were intended.⁷ In 2008, direct subsidies were allowed by law – Real Decreto 1971/2008 (Royal Decree on direct subsidies to the trade unions and employers' organizations) –, to both trade unions and employers' organizations and other forms of subventions continue today to be allocated to them through the yearly State's budget.⁸ As it may result obvious, the public financing of the unions and employers' organizations jeopardizes their independence.

Behind the hectic pace of assets allocation underlies the structural problem of unions' representativeness. The law on freedom of unionisation – Ley Orgánica 11/1985 – established the criteria – number of delegates obtained in the election processes – and the functions of the most representative unions. The preamble of the law explains that the intention is to open the legislation as much as possible to union pluralism, by “promoting the principle of equality above the aim of reducing unions' atomization, evolution that is left to the free interplay of the union forces with presence in the labour relations”. In practice, this regulation has prevented minority unions to access financial public support and institutional presence, thus perpetuating the low capacity of the major unions to develop in an independent and free context of strength.

⁷ International Labour Organization Case 900, Report No. 202, June 1980, part. 354. See also ILO Case 900 (Spain), Report No. 194, June 1979.

⁸ See, i.e., CCOO 2015 (Annual Accounts 2014), pp. 86-87, UGT 2016 (*Nuestras Cuentas 2015*), CEOE 2017 (Annual Accounts 2016), p. 46.

It must be added to the above that the extension mechanism of collective agreements – *erga omnes* effect – that applies in Spain has a further counterproductive effect in unions' power (Pumar Beltrán 2007): it makes unnecessary union's membership. And, since the Spanish law, Art. 83 The Workers' Statute accords to the most representative unions only, the legitimacy to bargain at multi-employer level, these unions become constrained by the interests of their affiliates otherwise they would risk losing their representative prerogatives. Put together government's financing and the automatic extension of collective bargaining coverage, have acted as disincentives for autonomous coordination in Spain.

4. Conclusions

The above comparative study suggests that the state's functions of coordination and regulation in industrial relations are not automatically excluding neither they are interchangeable but complementary and to a certain extent, interrelated. How this interplay operates is highly dependent upon the capacity of the state to share its power.

The Norwegian model indicates that engaging social actors in tripartite coordination might reinforce coordination at lower levels. The rationales behind can be easily understood in terms of information spread: sharing socio-politic-economic objectives at the national level obliges the parties to convey them to the lower levels if attainment is to be secured. This has a double advantage: the lower levels become involved in collective targets therefore paving the way for the smooth running of the system as a whole. However, for coordination to be effective it must develop on a continuous basis which is precisely the element that the Spanish context lacks.

It can be argued that the higher coordinated industrial relations contexts, the lower degree of regulation is found. This affirmation holds true in Norway, and finds its foundations on high organization rates which allow for the existence of strong social partners able to self-governing and to interact among them on an equal footing. As a consequence, the state does not need, and probably it could neither intervene in industrial relations. In this model, regulation plays a secondary role for the purposes of administering legal certainty thus creating a fair play ground that contributes to enhance the understanding between the parties in a somehow of a dynamic loop. Coordination and regulation are complementary functions in Norway. This notwithstanding, it needs to be seen if the current decreasing trend on unionization rates and the increasing opposing interests between the working class will continue and if so, how this will affect the coordination strategies and finally its impact on the system.

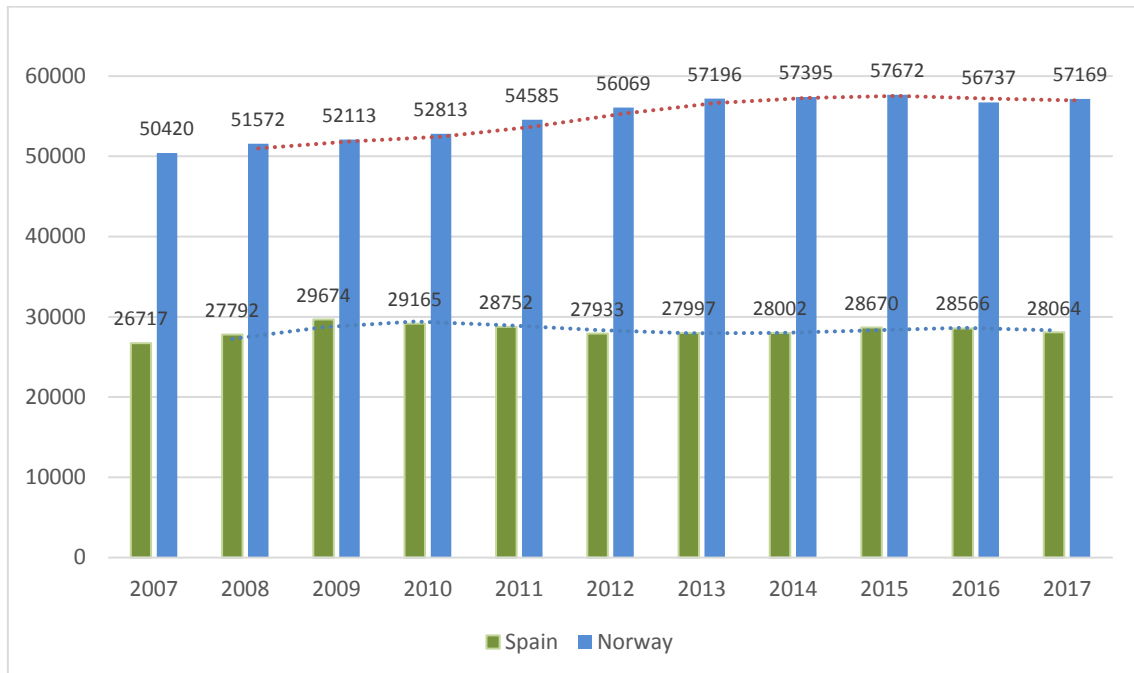
In contrast, the Spanish analysis shows that regulation does not necessarily lead to coordination but quite the opposite. The several reforms of the labour market, as well as the regulation of matters such as unions' representativeness or the legal extension of collective agreements have a counterproductive effect in that they limit unions' ability to grow and becoming an equal partner in the labour relation. As a consequence, the system creates a loop to the bottom in the sense that it favours the fragmentation of the organizations. On its turn, fragmentation makes difficult the unity of action necessary to undertaking serious attempts of coordination at any level. Third, the obstacles to find appropriate ways for negotiation and understanding lead to struggles. Within this approach it can be easily perceived that industrial relations in Spain have traditionally been an arena for dealing with conflicts⁹ rather than seeking for social progress, produce collective goods or achieve a better fit between production and protection systems.

The comparison raises a further point of interest related to the broader debate about the liberalization of the labour market. Let's take the example of wage formation. From the Norwegian model it is possible to infer that high levels of coordination

⁹ According to Meardi *et al.* (2015, 16) until 2009, Spain had one of the highest strike volumes in the EU.

supported with the involvement of the state might provide better results in terms of wage growth

GRAPH 1



Graph 1. Trend of average annual wages

Source: OECD 2018a, at constant prices and currency €.

and equality¹⁰ than contexts of low coordination where the state establishes a minimum statutory wage as in Spain. Here coordination acts as an alternative to regulation suggesting that the dichotomy regulation or flexibility might be too simplistic. Bearing in mind that the main regulatory functions of the state are: to grant compliance and to govern the relations between the parties, coordination provides a great deal of the same effects in Norway because the system is embedded in an institutional framework of shared powers. Conversely, the Spanish institutional context is built around the state as the only source of power failing to incentivize the creation of a structure supporting the autonomous functioning of collective negotiations.

Regulation, deregulation or coordination require the involvement of the state. The difference lies on the form and the degree of this involvement and the foundations underlying it. The comparison shows that the question goes beyond the polarity state/non-state. Rather it might be reformulated in different, broader terms, i.e. which kind of state can better serve industrial relations? Currently Spain qualifies as a liberal state, however in terms of industrial relations it might be better defined as an interventionist state. The opposite holds true for the Norwegian social-democratic state that adopts a liberal stance when it comes to its implication on industrial relations.

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¹⁰ 2015 Gini Index: Spain 36.2; Norway 27.2. From: <https://data.worldbank.org/indicator/SI.POV.GINI?locations=NO-ES>

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