

The Paradox between the European Pillar of Social Rights and EU Economic Governance: Spanish Reforms to Wage-Setting Institutions and the Working Poor

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Canalda Criado, S., 2019. The Paradox between the European Pillar of Social Rights and EU Economic Governance: Spanish Reforms to Wage-Setting Institutions and the Working Poor. *Oñati Socio-legal Series* [online], 9(1), 32-50. Received: 24-11-2017; Accepted: 09-04-2018. Available from: <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1011>



Abstract

The European Pillar of Social Rights (EPSR) was announced as a new platform for advancing social policy in the European Union. Among the principles and rights enshrined in the EPSR, the Commission has included the right of workers to be paid fair wages. However, in the context of EU Economic Governance, the EU country-specific recommendations steer national wage-setting institutions in the opposite direction. The outcomes sought by EU Economic Governance and the EPSR thus produce a paradox. This paper presents the Spanish case as an example of this paradox. More specifically, it assesses the reforms the Spanish Government made to minimum wage rules and the collective bargaining system during the financial crisis. In the end, all those reforms have led to wage stagnation and devaluation, causing an increasing number of working poor.

Key words

European Pillar of Social Rights; Labour Law reforms; collective bargaining; minimum wages

Resumen

El Pilar Europeo de Derechos Sociales (EPSR) fue presentado como una nueva etapa en la dimensión social de la Unión Europea. Entre los principios y derechos consagrados en la EPSR, la Comisión incluyó el derecho de los trabajadores a un salario justo. Sin embargo, en el contexto de la gobernanza económica de la UE, las Recomendaciones a los países de la UE llevan a las instituciones nacionales de fijación de salarios en la dirección contraria. Por lo tanto, los resultados buscados por la nueva gobernanza de la Unión Europea y el EPSR producen una paradoja. Este

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artículo toma el caso español como ejemplo de dicha paradoja. Más concretamente, evalúa las reformas adoptadas por el Gobierno español durante la crisis con respecto al salario mínimo y al sistema de negociación colectiva, las cuales han llevado a una moderación o una devaluación de los salarios, favoreciendo el aumento de la pobreza laboral.

Palabras clave

Pilar Europeo de Derechos Sociales; reformas laborales; negociación colectiva; salarios mínimos

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1. The EU Paradox: the European Pillar of Social Rights and EU Economic Governance

The proposal to build a European Pillar of Social Rights (EPSR) is a new step in advancing social policy in the European Union. When it was announced, the European Pillar of Social Rights was meant to “respond to a double need: overcoming the crisis and looking beyond, and moving towards a deeper and fairer Economic Monetary Union (EMU)” (European Commission 2016b, p. 3). That report also reminds readers of Europe’s first Social Action Programme adopted 1974, which held that “economic expansion is not an end in itself but should result in an improvement of the quality of life as well as of the standard of living” (European Council 1974). However, the Social Dimension of EU economic governance (EUEG) is simply a way to mitigate the effects of fiscal reform rather than an integral part of macroeconomic planning (Adams and Deakin 2015, p. 119). Indeed, since the financial crisis of 2008, economic adjustment programmes have led to “wage cuts, [the] decentralisation of collective bargaining, and greater selectivity in employment protection and social security” (Adams and Deakin 2015, p. 111). As a consequence of these opposing policies, it can be concluded that the principles that the EPSR seeks to promote and the consequences of policy changes caused by EUEG produce a paradox, which can also be seen in the IMF’s own policies (Ebert 2015, p. 124).

On one hand, in the first preliminary outline of the EPSR, the Commission states, “[M]aintaining an evolution of wages in line with productivity has proven crucial for competitiveness, particularly within the euro zone” (European Commission 2016a, p. 10). However, it seems that no specific initiative had been seriously contemplated, since the final version of the EPSR states that “Member States and social partners are responsible for defining wage and minimum wage developments in accordance with their national practices,” whereas, at the level of EU, the social partners are to be consulted (European Commission 2017, p. 7). In spite of that, the EPSR contains two principles: on one hand, the right of workers to fair wages that make it possible to afford a decent standard of living and, on the other hand, adequate minimum wages that “[satisfy] the needs of the worker and their family in the context of national economic and social conditions, whilst safeguarding access to employment and incentives to seek work”. Moreover, the EPSR also seeks to prevent in-work poverty. At the end, the EPSR concludes by affirming that all wages should be set in a transparent and predictable way according to national practices and respecting the autonomy of social partners.

On the other hand, the crisis of 2008 and the public debt crisis of 2010 triggered EU institutions and Member States’ national governments to adopt and implement a myriad of measures which, in the end, resulted in the new EUEG. Its aim was to “reinforce the stability of the Eurozone by putting in place new mechanisms for monitoring, sanctions, and coordination, as well as – perhaps in future – solidarity” (Degryse 2012, p. 6). Within the new EUEG framework, the European Commission analyses the national reform programmes proposed by EU Member States and suggests structural reforms in the form of country-specific recommendations, which, in many cases, focus on labour reforms. Moreover, those countries which received economic aid had to execute stricter labour reforms, in accordance with their Memoranda of Understanding. The argument behind including all these labour reforms in the country-specific recommendations was that making labour markets more flexible was one of the best ways to respond to the crisis (Clauwaert and Schömann 2012, p. 6).

Both instruments, the EUEG and the EPSR, are far from having the same status. While the binding nature of EUEG instruments has been partially strengthened (Degryse *et al.* 2013), the EPSR simply constitutes a recommendation from the Commission, as well as a proposal for an inter-institutional proclamation (European Commission 2017, p. 6). In addition, the European Commission recognises that Member States and social partners have primary or even exclusive competences in

areas included in the EPSR, such as that of minimum wages (European Commission 2017, p. 6). Despite this, the EPSR's outcomes are to be monitored within the framework set forth by the European Semester for economic policy coordination (European Commission 2017, p. 9).

The paradox is based on the consequences of the EUEG, the most important of which include the increasing number of low salaries and working poor. Effectively, the EUEG's recommendations and the European financial assistance programmes have focused on wage-setting mechanisms (Eurofound 2014), causing drastic changes to be made to them. As an example, the shifts have been strongly focused on "undermining the governance capacity of sectoral (and cross-sectoral) agreements in favour of those concluded at the company level" (Marginson 2014, pp. 97-98). With regard to this, the European Commission has stated that "the years after 2007 witnessed a reduction in real collective wage outcomes" (European Commission Directorate-General for Employment, Social Affairs and Inclusion 2015, p. 50).

During the period between 2008 and 2014, wages in Spain lost purchasing power. If we compare the evolution of the Labour Price Index and the Consumer Price Index (annual average, general index) between 2008 and 2014, we see that the former dropped by 0.7 points while the latter increased by 8.3 percentage points. Furthermore, the International Labour Organization (ILO) has also stated that wages have gone down considerably since the beginning of the recession, resulting in deteriorating living conditions (ILO 2014, p. 49). Indeed, the poverty rate for employed persons has increased from 2008 (11.7%) to 2015 (14.8%) (Instituto Nacional de Estadística –INE– 2018). In this sense, the ILO Report highlighted three elements as having a direct influence on wages and the distribution of wages: the minimum wage, the bargaining system, and the creation of quality employment. For this reason, this paper will examine legislative policies from recent years that have reformed these distribution, specifically examining the evolution of freezing or negligibly increasing the inter-professional minimum wage and the weakening of collective autonomy through reforms to the collective bargaining system.

2. The constitutional right to wage sufficiency: sectoral minimum wages in the context of a weak national minimum wage

The Spanish Constitution of 1978 (SC) obliges public authorities "to promote such conditions that the freedom and equality of each individual and of the groups to which they belong are genuine and effective." Consistent with this, the SC recognises in Article 35(1) that all Spaniards are entitled "to sufficient remuneration to meet their needs and those of their family, without any discrimination on the basis of sex", where the definition of "sufficient" is dependent upon the social function that a "wage" takes on in both the Spanish system and in other legal systems in our environment (Castro Conte 2007, pp. 32-33).

Article 27 of the Workers' Statute (WS; Real Decreto Legislativo 2/2015) stipulates that "the Government shall, after consultation with the most representative trade union organizations and business associations, determine the inter-professional minimum wage". According to Del Valle, the inter-professional minimum wage (IMG) is a special means to achieving remuneration sufficiency (Del Valle Villar 2002).

In this sense, the inter-professional nature of this particular kind of minimum ensures that it applies to the entire salaried population (Llompert Bennassar 2007, p. 140). In the words of the Constitutional Court (Sentencia del Tribunal Constitucional 31/1984), the Inter-professional Minimum Wage acts as a sort of *minimum wage ceilings* that both complements the normal system for setting the minimum wage and corresponds with the autonomy that workers and entrepreneurs enjoy by exercising their right to collective bargaining (Article 37.1 SC). Accordingly, the Court states that the institution of the minimum wage constitutes a coercive interventional tool in labour relations whose use is justified, given that it protects a set of interests

that the constitutional principles of justice and equality have deemed to be worthy and deserving of attention from the State (Article 1(1) of the SC).

Article 27 of the WS establishes a series of indicators that the government must take into account when determining wages, namely, the consumer price index, the level of national average productivity achieved, increases in labour's contribution to national income, and the country's general economic situation. As Castro Conte has pointed out (Castro Conte 2007, pp. 120-122), the executive branch of the government has taken other factors into account, such as macroeconomic policy commitments Spain has made in connection with European economic integration; support for this can be found in Article 97 of the SC, which recognizes the government's power over economic policy. In addition to these other criteria, we must also make note of the requirements imposed on the countries that received financial support from the European Central Bank (ECB), the International Monetary Fund (IMF), and the European Commission, whose financial assistance programmes required Ireland, Portugal, Cyprus, and Greece to lower their inter-professional minimum wages (Eurofound 2014).

Moreover, the minimum wage must be established after consultation with the country's most representative trade union organizations and business associations. This renders the Spanish model of setting the minimum wage similar to that of most European countries, which establish their respective minimum wages as a matter of law and not through collective bargaining or social agreement. Similar models, also known as "universal" models, that establish inter-professional minimum wages can be found in France, Luxembourg, the Netherlands, Ireland, the United Kingdom, Greece (since 2012), Malta, Portugal, Croatia (since 2008), Lithuania, Latvia, Romania, Slovenia, the Czech Republic, and Hungary. While the minimum wage in Cyprus is also set by law, it is also somewhat sector-based (Schulten 2014).

In Spain's case, the Memorandum of Understanding on Financial-Sector Policy Conditionality (Memorando de Entendimiento sobre Condiciones de Política Sectorial Financiera, 2012) required Spain to comply with the commitments adopted under the Excessive Deficit Procedure and the country-specific structural reforms recommended to Spain within the framework of the European Semester. In the recommendations from 2012 (European Council 2012), the Council of the European Union drew attention to the development of wages as a result of the labour reforms passed as part of Law 3/2012. Prior to the recommendations, Spain's National Reform Programme included freezing the inter-professional minimum wage for the first time among the expenditure reduction measures for 2012. In 2014, the IMG was frozen again. However, in 2017, the IMG increased by 8% over the amount recorded in 2015.

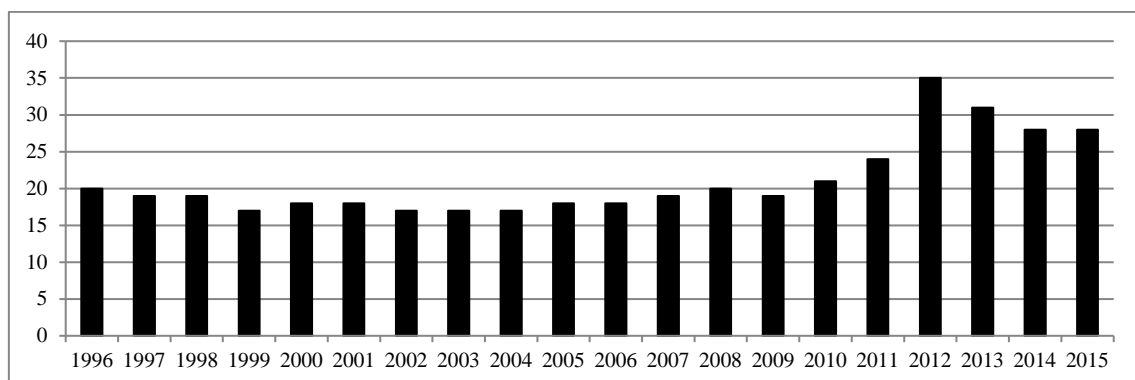
However, the configuration of the IMG in Spain must respect the commitments made internationally with the ILO and the Council of Europe. The European Parliament has condemned "the cut in minimum wages and the freezing of nominal minimum wages" (European Parliament resolution P7_TA(2914)0240, p. 11). The ILO, in turn, has adopted several international labour standards relating to minimum wage guarantees, the most current of which is Convention 131 supplemented by Recommendation 135. The Convention was ratified and officially published by Spain so, under Article 96 of the SC, its content is part of domestic law. Convention 131 became particularly relevant due to Europe's economic crises and was thus the subject of special attention at the 103rd Session of the ILO's International Labour Conference, which was convened in 2014 and included a discussion regarding the General Survey on Minimum Wage Systems (Committee of Experts on the Application of Conventions and Recommendations 2014). Although the approach adopted deals more with social protection, minimum wage policies are also linked to the strategic objective of employment, insofar as minimum wages should be included within the salary policies that ILO Member States are to promote as part of broader employment policy frameworks (International Labour Conference 2014). In this case, Article 3 of

Convention 131 lists not only economic factors but also “the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups,” among the elements to be taken into account when determining minimum wage levels. To this end, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) made a remark regarding Spain’s compliance (or lack thereof) with Convention 131 (ILO 1970) when the Spanish Government froze the IMG in 2012, citing the difficult economic situation. The CEACR affirmed in that communiqué that paying minimum wages that allow workers to meet their needs and those of their families, and which the social partners agree to, is an essential element of decent work. Because of this, the CEACR challenged the Spanish Government to take the needs of workers and their families more fully into account and to not focus solely on economic policy objectives, avoiding depreciations in the minimum wage’s purchasing power. Indeed, the CEACR made a direct request to Spain in 2013, asking that it respond to the Commission’s observation from 2012.

Spain also ratified the European Social Charter (1961), which was adopted by the Council of Europe. Article 4 of the 1961 version of that Charter, which is the version Spain ratified, recognises the right to equitable remuneration and, in particular, the right of workers to sufficient remuneration to provide them and their families with a decent standard of living. According to the European Committee of Social Rights, a country’s minimum wage must not be lower than its poverty line, defined as 50% of the average national salary, in order to comply with the Charter’s precept (European Committee of Social Rights 2015). To this end, the Committee has found that Spain does not comply with the Charter’s mandate, since the minimum wage does not guarantee workers the appropriate standard of living. In fact, the European Committee on Social Rights stated in 2010 that Spain’s inter-professional minimum wage was manifestly unjust (European Committee of Social Rights 2010).

As can be deduced from all of the above, the relevance of the national minimum wage as a wage floor lies in how sufficient the wage is. In quantitative terms, the impact of the minimum wage as a tool to curb the aforementioned trends regarding decreases in wages and, as a consequence, the impoverishment of workers can be seen in the increase in the percentage of workers whose incomes are equal to or lower than the Inter-professional Minimum Wage: in 2008, 8.9% of workers had an income at or below that threshold, while this increased to 13.2% of workers in 2013 (the year after the IMG was first frozen). Moreover, because of just how insufficient the IMG has been, the percentage of collective agreements which have a larger scope than just one company and which include clauses establishing sector-based minimum wages has increased since the beginning of the crisis.

GRAPH 1



Graph 1. Percentage of collective agreements concluded at the sectoral level, including sectoral minimum wage agreements (1996-2015).

Source: Own elaboration with data from Ministerio de Empleo y Seguridad Social (MEYSS) 1996-2015.

Moreover, as the ILO points out in the report mentioned above, the link between the minimum wage and the collective bargaining system is complementary (International Labour Organization 2014, p. 68). Thus, we will see below the main characteristics of the Spanish system of collective bargaining in relation to the level of wage income.

3. The dismantling of the collective bargaining system as a hub of wealth distribution

The role of collective bargaining is crucial for the establishment of the level of wages. Due to this, the heads of State and Government of the EU agreed in the so-called *Euro Plus Pact* to “review the wage setting arrangements, and, where necessary, the degree of centralisation in the bargaining process, and the indexation mechanisms, while maintaining the autonomy of the social partners in the collective bargaining process” (European Council 2011, p.16).

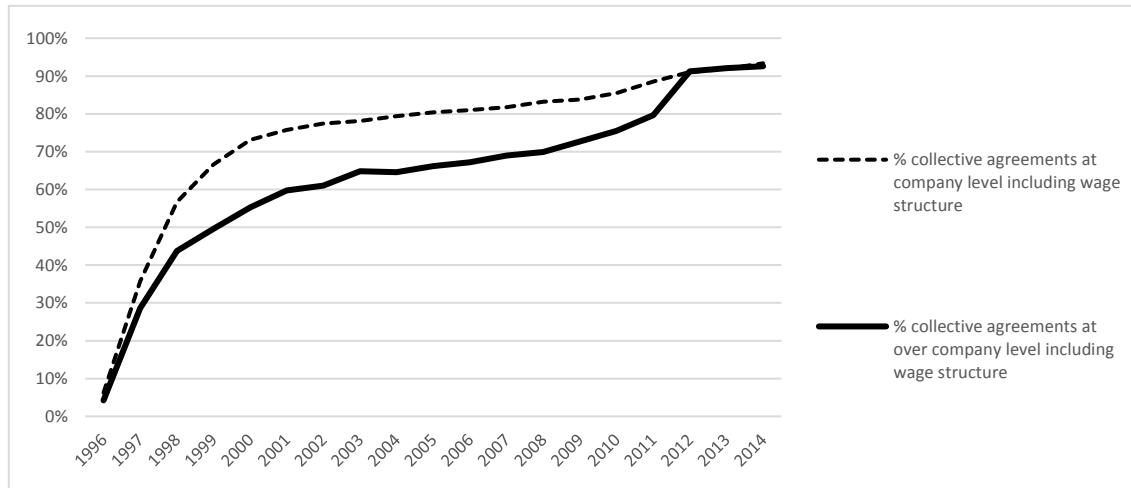
Collective bargaining is the main institution through which wages are negotiated in Spain. According to López López (2009, p. 57), collective bargaining has been a transparent instrument in the wage setting system to guarantee workers’ social rights and has also translated to marked flexibility in wage structures. The Spanish Constitution recognises the right to collective labour bargaining between workers’ and employers’ representatives. The word *labour* acts as an outer limit for the exercise of the right, as “the eventual political negotiations of trade unions and employers’ associations with the Government” are not protected (Valdés Dal-Ré 1980, p. 251). Thus, wages are one of the subjects included in labour negotiations, since they are the economic compensation that workers receive for their work for others.

Consistent with this, Article 26(3) of the WS establishes that a salary structure should be determined via collective bargaining or, failing that, via an individual contract. In the same sense, some special labour relations are regulated with special references to collective bargaining, which, according to these regulations, should set the remuneration. The fact that the law gives prevalence to what is established *vis-à-vis* wages during collective bargaining negotiations, which could be agreed to in an individual labour contract, has logical consequences for the role that collective bargaining plays in establishing wages in Spain. However, the question arises whether collective bargaining should play a role not only in collective bargaining agreements but also in other types of negotiations, such as company agreements, which is affirmatively reinforced through opposition to individual contractualisation (Pérez Agulla 2015, p. 211).

The national wage structure has fallen under the purview of collective bargaining since the great reforms of Law 11/1994, before the State started regulating the minimum wage by way of the Labour Ordinances; López has defined the moment when collective bargaining became the means of determining the national wage structure as a normative withdrawal of the State (López López 2009, p. 66). In addition to the wage structure, collective bargaining may also decide other matters, for instance, wage supplements, when and where wages are to be paid, the receipt of wages, when extraordinary payments will be made, etc.

Since then, there has consistently been a rising number of collective agreements that include salary structure clauses, especially after 1997 and in 2012, when the major labour reforms were passed. Accordingly, more than 90% of both company-level and super-enterprise agreements define wage structures (i.e., a worker’s base salary and wage supplements). In addition, collective agreements not only regulate wage structures but also include so-called safeguard clauses or wage revision. According to Cebrián López and Pérez Infante (2013, p. 40), these clauses would complete the salary model and become important when actual inflation exceeds the expected inflation, which was used to establish agreed upon wage increases.

GRAPH 2



Graph 2. Percentage of collective agreements that include salary structures (1996-2014).

Source: Own elaboration with data from MEYSS (1996-2015).

Collective bargaining has, thus, become an essential forum for regulation and, thereby, for wage setting in Spain. However, the collective bargaining reforms made by Law 3/2012 affected the main values of statutory collective agreements. Firstly, the reforms lay out a regime of non-applicability for collective agreements originally applicable to an enterprise, regardless of whether the collective agreement was concluded at the company- or sector-level. Secondly, the reforms limit a collective agreement's period of validity after it expires. Thirdly, the reforms prioritise applying agreements concluded at the company-level over those concluded at the sector-level. All these reforms sought "to convert the products of collective contractual activity into simple tools to serve the interests of companies" (Valdés Dal-Ré 2012, p. 225).

3.1. The procedure for making collective agreements "inapplicable": Devaluing wage standards in favour of wage cuts

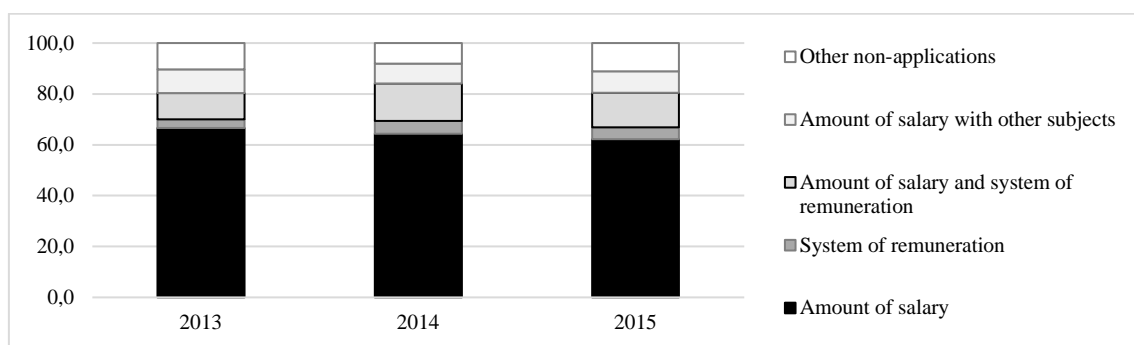
The inclusion of opt-out clauses in national collective bargaining systems was triggered by the economic programmes imposed on the countries bailed out by the Troika (i.e., the IMF, the ECB, and the European Commission). As Colàs Neila (2016) has affirmed, opt-out clauses are directly connected with the legal enforceability of collective agreements, which is recognised in the Spanish Constitution. From a comparative perspective, the European Parliament has also declared that this measure, together with the possibility of revising sector-based wage agreements, "has direct consequences for the structure and values of collective bargaining arrangements set out in the respective national constitutions" (European Parliament resolution P7_TA(2014)0240, p. 10).

Article 82 of the WS allows for certain labour conditions – such as remuneration systems and wage amounts – provided for in applicable collective agreements concluded at either the enterprise- or sector-level to be deviated from in case of economic, technical, organisational, or production need. The possibility of not being required to comply with a collective agreement has resulted in the weakening of the normative value of collective agreements (López López 2009, p. 99). Moreover, as the Supreme Court (Sentencia del Tribunal Supremo de 15 de julio de 2015) has pointed out, wage structures can also be fixed by means of a company agreement (different from a collective agreement regulated by the WS). Those agreements can be modified by way of the procedure envisaged by Article 41 of the WS, also in case of economical, technical, organisational and production need. This article also includes the modifiable subjects of the remuneration system and, after the labour reforms of 2012, the salary amount (Article 41(1)(d) WS).

On one hand, modifying a salary amount via Article 41 of the WS is very relevant for two reasons: firstly, changes to wages of an individual or limited group of workers do not require a consultation period, so, under the 2012 reform, employers can impose wage reductions unilaterally (Sáez Lara 2012, p. 235); secondly, the collective wage modification procedure does not require an agreement at the end of the consultation period, so the unilateral power of the employer will continue to prevail.

On the other hand, the procedures for making a collective wage agreements *inapplicable* represent the majority of procedures initiated above any other matter. As can be seen in the chart below, most procedures from recent years that have made a wage agreement *inapplicable* have been triggered by the salary issue. In particular, inapplicability procedures based on salary amounts has exceeded 60% of the total number of procedures, followed by those in which both the salary level and the remuneration system were deemed inapplicable.

GRAPH 3

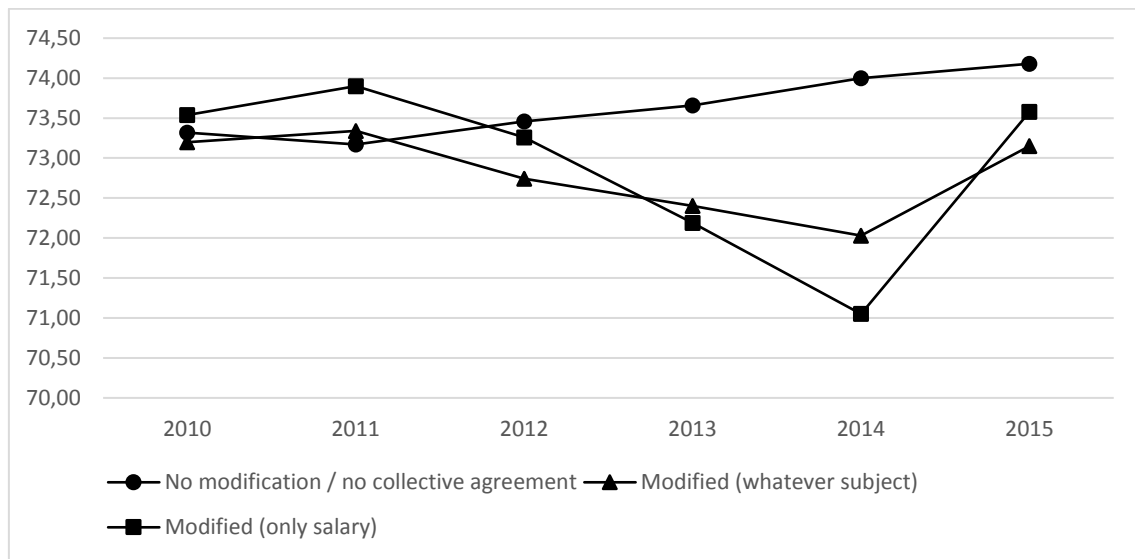


Graph 3. Subject matter of inapplicability procedures (%) (2013-2015).

Source: Own elaboration with data from MEYSS (1996-2015).

The economic impact of the non-application of these collective agreements can be seen in data from the Annual Labour Cost Survey. The following graph shows the percentage of wages and salaries against the gross total cost of labour. Specifically, wages and salaries are classified as follows: (1) wages regulated via a collective agreement that has not undergone any alteration during its validity (except the signing of a new agreement) or wages regulated by means of another instrument that is not an agreement; (2) wages regulated via a collective agreement whose working conditions have been altered; and (3) wages regulated via a collective agreement that has been altered solely in terms of the salary provided. Looking at the data, we can see that the percentage of wage costs that had been set in collective agreements (which were only affected in terms of workers' salaries) went down in 2012, 2013, and 2014, thus representing lower total labour costs for companies. The percentage of wage costs over total labour costs for companies also went down when wages were regulated via an agreement whose salary had been altered along with other conditions or which had been altered in other ways entirely, with no regard to the salary.

GRAPH 4



Graph 4. Wage costs over total labour costs (%) by type of collective agreement (2013-2015).

Source: Own elaboration with data from Instituto Nacional de Estadística (INE) 2017.

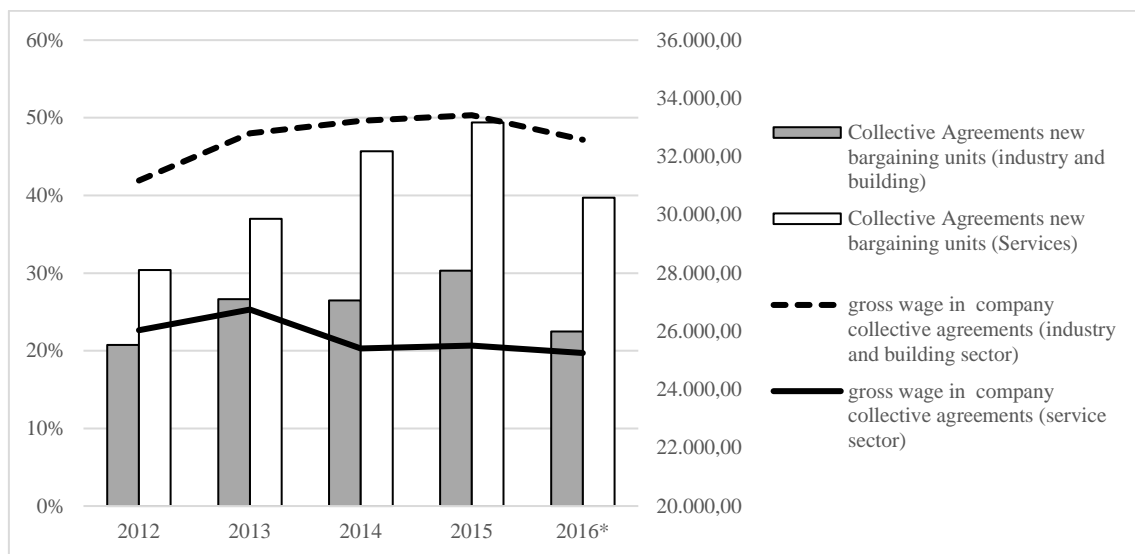
3.2. Priority given to company-level collective agreements: decentralisation and low salaries

Another aspect of the collective bargaining system that was affected is the priority of application of collective agreements concluded at the company – corporate group –, and networked company-level over agreements concluded at higher levels. As has been pointed out, the preferential application of company-level collective agreements cannot be altered by the rules of articulation of sectoral-level collective bargaining (see Chacartegui Jávega 2016).

Although giving company-level collective agreements priority is not directly related to decreases in salary, the new collective agreements signed have resulted in lost purchasing power. There has been a drop in the amount of wages found in new collective agreements. This has been facilitated by the 2012 reform and, in practice, has impacted all kinds of remuneration, namely, basic salary, paid extras and bonuses, salary supplements of all kinds (including overtime and shift work), salary revisions, and, in cases where there were diversions from original agreements, salary updates (Vivero Serrano 2016, p. 14).

Indeed, the emergence of new bargaining units may be related to the evolution of wages in different economic sectors. As can be seen in the following graph, workers' gross wages in the service sector were lower in 2016 (25,255.40 EUR) than in 2012 (26,035.08 EUR). In contrast, the value of gross wages for workers in the industrial sector (including the construction sector) was higher in 2016 (32,577.98 EUR) than in 2012 (31,178.90 EUR). The appearance of new bargaining units in the service sector (up to 50% in 2014) could explain why wages have not recovered pre-crisis levels.

GRAPH 5



Graph 5. New bargaining units (%) and gross wage (number) by sector (2012-2016)

Source: Own elaboration with data from MEYSS (1996-2015) and INE (2017). (2016 data is provisional.)

In this regard, the service sector has been quite vulnerable to the emergence of so-called *multi-service companies* in the context of outsourcing. These companies are characterised by developing the functions of genuine temporary employment agencies, bypassing the ban on the transfer of workers (Chacartegui Jávega 2011). They produce, among other things, reductions in costs inasmuch as they circumvent the principle of equal pay (Rivero Lamas 2006, p. 92), offering lower labour costs through company-level collective agreements and avoiding sector-based collective agreements (Rivero Lamas 2006, p. 93). In connection with this, recent case law has declared collective agreements signed by workers' representatives at multi-service companies' headquarters invalid for failing to comply with the principle of correspondence (representativeness; see López López 2016). As a consequence, the precariousness that workers have experienced has increased (Vicente Palacio 2016).

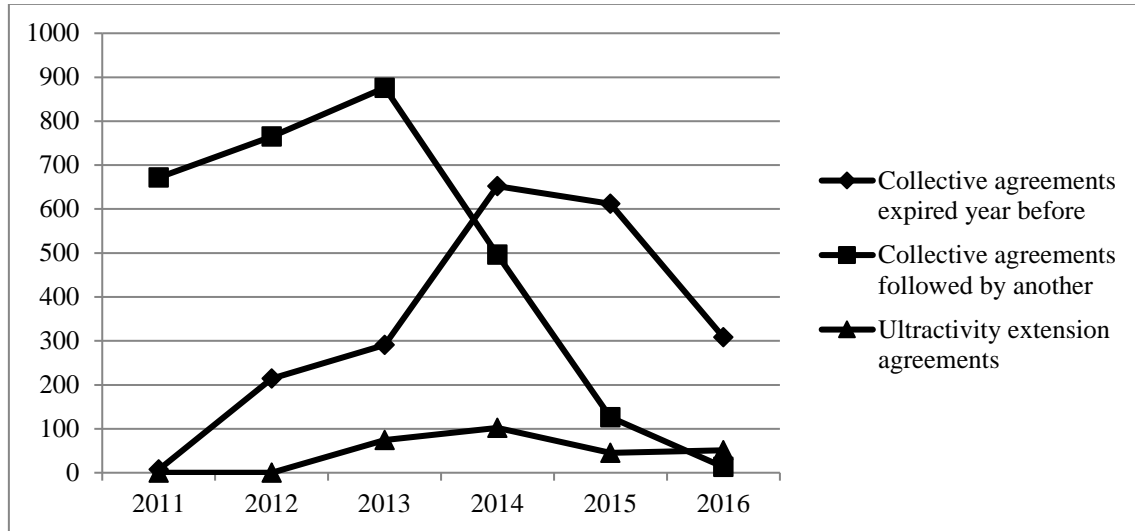
3.3. The effects of expired collective agreements' 12-month validity period: lower wages in higher-level collective agreements (if any)

Another reform that has contributed to the impoverishment of workers has been the one-year period during which collective agreements retain their legal force beyond the date of expiry. The labour reforms of 2012 introduced the stipulation that, if negotiators do not reach a new agreement one year after an agreement's expiry date, the collective agreement will lose its validity, unless otherwise agreed upon, and only the higher-level collective agreement shall apply, if any.

Although there are no data on how many agreements have expired due to the end of the *ultra-activity* period (the period during which expired agreements still carry legal weight), general estimations can be made based on data from the collective agreement registry. As can be seen in the following chart, the number of collective agreements that were replaced or repealed by another subsequent agreement was always higher than the number of collective agreements expired between 2011 and 2013. In 2013, social partners signed the ultra-activity agreement (Resolución de 30 de mayo de 2013) in order to provide solutions for the loss of validity of agreements set to expire one year after the entry into force of the 2012 labour reforms. This agreement might have produced the increase seen in 2014 in the number collective agreements that had expired the previous year. Similar behaviour can be seen in the number of agreements that received extensions during the same month of the previous year, as they reach the highest value also in 2014 and then decrease. The

most important observation here is that, since 2014, the number of collective bargaining agreements that expired a year prior has always been higher than the number of agreements that replace or repeal a previous one. In this sense, the difference between both data could represent the total number of agreements whose effectiveness would have ended due to the limits on ultra-activity.

GRAPH 6

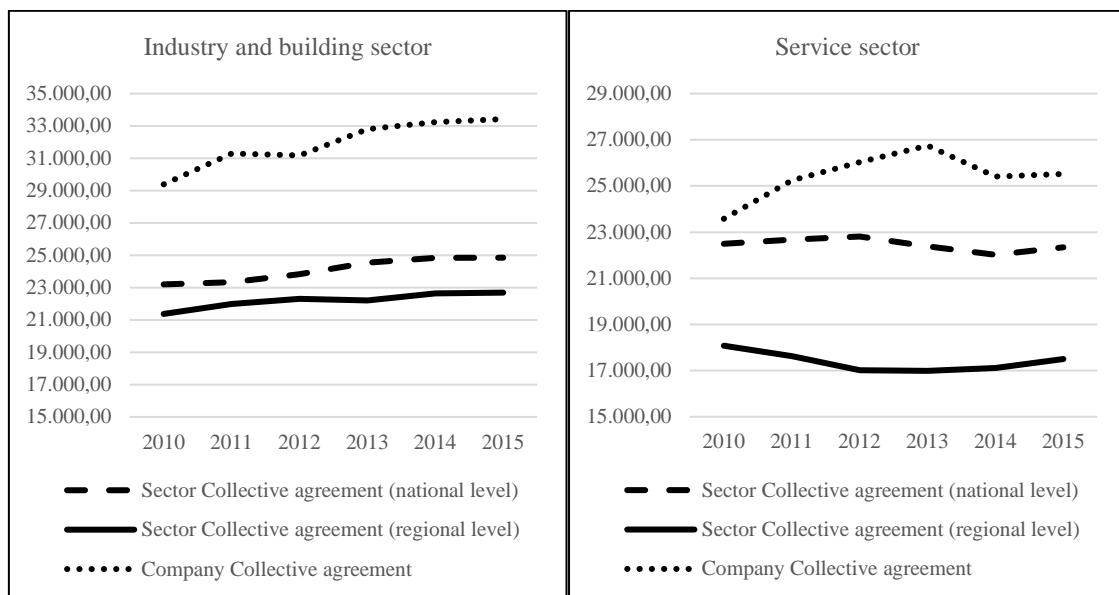


Graph 6. Total number of collective agreements that expired one year before, collective agreements followed by another, and expired collective agreements that were extended (2012-2016).

Source: Own elaboration with data from MEYSS 2012-2016 (data until 24 November 2016).

As mentioned above, an agreement's loss of ultra-activity would result in a higher-level collective agreement being applied, if any (see De le Court 2016). As the following chart demonstrates, this may cause a decrease in wages to occur, since the value of wages stipulated in higher-level collective agreements is less than those stipulated in collective agreements concluded at the enterprise – or workplace-level. Specifically, workers in the industrial and construction sector whose wages were regulated via a company-level collective agreement saw their wages stay above 29,000 EUR during the crisis, whereas, if their wages were regulated by sectoral collective agreements concluded at the national-level or at the regional-level, workers' wages did not exceed 25,000 EUR or 23,000 EUR, respectively. In the service sector, wages regulated via sectoral collective agreements concluded at the national or regional level did not exceed 23,000 EUR and 18,000 EUR respectively, while wages regulated via company-level collective bargaining agreements rose during the crisis – from 23,000 EUR in 2011 to more than 25,000 EUR in 2015.

GRAPH 7



Graph 7. Total gross wage amount by sector and collective agreement type (2010-2015).

Source: Own elaboration with data from INE 2017.

4. Conclusion: the need to reduce the number of working poor using strong collective bargaining

The number of working poor is increasing both in Spain and in other EU countries (Eurostat 2017). As has been showed above, Spanish legal reforms to collective bargaining may have contributed to this increase. Indeed, countries with centralised collective bargaining systems typically tend to have lower levels of in-work poverty (Eurofound 2017, p. 12). Moreover, structural reforms affecting national collective bargaining systems became a common pattern during the crisis in the EU's southern countries, where tripartite social dialogues rarely existed (Malo 2016, p. 117). Indeed, the implementation of decentralisation occurred in both central and southern countries, but it was implemented in a more abrupt and disorganised way and imposed unilaterally by governments in the latter (European Commission Directorate-General for Internal Policies 2016, p. 6).

As has been mentioned earlier, EU austerity will continue to lower standards of living, if the EMU is not reoriented (Adams and Deakin 2015, p. 123). Regarding wage cuts, the European Parliament has said that they "run counter to the EU's general objectives and the policies of the Europe 2020 strategy" (European Parliament resolution P7_TA(2014)0240, p. 11). The EPSR should represent a new opportunity to reconquer the autonomy of collective bargaining at both the national and the European level. Furthermore, although the EPSR is primarily a political instrument, we must remember that it proclaims rights that are recognised in legally binding instruments, such as the Treaties and the Charter of Fundamental Rights of the European Union.

The legal reforms adopted in Spain during the Great Recession years have inevitable consequences for workers' rights, namely, their rights to wage adequacy and to the exercise of collective bargaining. Without forgetting that the Member States and the European Union itself are responsible for implementing solutions to the economic crisis, they are also responsible for ensuring that labour rights are protected. For this reason, they are obliged to correct measures that have had negative impacts on social rights.

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