

“On the other side, you have only crocodiles”: Greece under the Troika ✓

In September 2014, the Greek General Confederation of Labour (GSEE) registered a complaint with the Council of Europe alleging that austerity measures imposed on Greece by the ‘Troika’ (the European Commission, the European Central Bank and the IMF)¹ violate the European Social Charter². In early February, ICTUR spoke with Prof. Wolfgang Däubler, who was appointed last year to an Expert Group to review Greece’s labour reforms.

In an unusual move (shortly after this interview), the IMF announced that its Board was split, with the Directors expressing differing views on fiscal consolidation and the country’s debt burden.³ Notably however, the Directors agreed on ‘the need to preserve and not reverse existing labour market reforms and complement them with additional efforts to bring Greece’s collective-dismissal and industrial-action frameworks in line with best practices’. As Professor Däubler recounts, these very reforms have all but demolished the system of collective bargaining existing in Greece before the crisis. It remains highly questionable whether – as the IMF proposes – the existing system can be brought into line with ‘best practices’, so long as the reforms imposed on Greece are to be preserved.

Ciaran Cross (CC): Professor Däubler, could you first explain a little about the situation faced by the Greek economy after the 2008 financial crisis?

Wolfgang Däubler (WD): The financial crisis made the problems already existing in Greece even more urgent. And due to the competition between the different countries in the Eurozone, Greece had limited options. In the time when Greece had its own currency - the Drachma - there was a possibility of devaluation, one could devalue the currency if the country was unable to face the competition. But this possibility no longer exists if you are a member of the Eurozone. And therefore Greece had to look for another form of devaluation - of internal devaluation. That means they were economically forced to reduce wage costs.

This was done in a very brutal way. Of course, Greece did not choose this of its own will, but under the influence of the so-called Troika. And the means taken to reduce labour costs were implemented in 2010 and found a provisional end in 2012. In this time, they demolished the whole system of collective

bargaining and reduced the minimum wage. The result is that today wages are at 75 percent of the level before 2010, and unemployment is around 24-25 percent. Among young people under the age of 25, unemployment is 50 percent. That’s a catastrophe.

CC: What was the effect on Greece’s collective bargaining structures specifically?

WD: In Greece there are a very few large enterprises, but a very high number of small enterprises. Before 2010, about 90 percent of all workers or employees were protected by collective agreements. These agreements were in all sectors, and were relatively good collective agreements. The legal basis for such high coverage was that collective agreements were declared to be generally binding. This was necessary because not every small enterprise with three employees is a member of the employers’ association. But it was possible to take a collective agreement in one sector - hotels for instance - and extend it to the whole sector. And therefore the system depended on the ability of the government to extend the collective agreements to all employers and employees. That was the traditional system: all these collective agreements were extended to the whole sector, and therefore coverage was around 90 percent.

In 2012, this system of extending collective agreements was suspended by the Troika. The Troika decided and the Greeks had to follow. As a result, there is no longer any effect *erga omnes*, as the lawyers say, meaning that now collective agreements only bind the members of the employers’ associations and the members of the trade unions. And under these conditions, all of the employers who are not members of the employers’ association have the opportunity to impose worse working conditions on workers, to pay lower wages, and that’s a big problem. This was the first step the Troika took and it was very similar to what has happened in Portugal.

Secondly, in a lot of sectors, there were still collective agreements that were still valid for one or two years, and they also wanted to reduce these wages by 25 percent. The unions refused to do this, and in many small enterprises there are even no unions who could do it. So the next step taken was to install a new institution. It became possible to make a so-called ‘association of persons’, of at least five persons, who were granted the right to make collective agreements.

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That means not only unions, but such ‘associations’ of even five persons in a small enterprise could conclude a collective agreement. And of course, these agreements would undercut the level of the regional, or the level of the industry agreements. Because it’s quite easy in a small enterprise with ten or fifteen or twenty employees, for the employer to say, ‘Well, I have no money, we need to go below the level of the general collective agreement, so let’s form an association of persons. Ten of my friends will come and we’ll have a good evening together and then lower the wages by, say 20 percent...’ They installed - you might say - ‘yellow dog unions’ in the sense that they installed associations which were dependent on the individual employer.

And by these two means, they destroyed the system of collective bargaining. The majority of collective bargaining was concluded by these ‘association of persons’ in 2013 and 2014, and around 10 percent of all collective agreements were concluded by the unions.

The unions and the employers’ associations had lost a lot of their importance. That was the situation.

CC: And as a result the coverage of collective agreements fell quite dramatically, from 83 percent in 2009 to 42 percent in 2013...

WD: Yes. And even this coverage is misleading because people are covered by collective agreements concluded by ‘associations of persons’.

CC: Last year, you were appointed to the Expert Group for the Review of Greek Labour Market Institutions. How was the Group constituted and what was its mandate?

WD: In the Third Memorandum between Greece and the Institutions [of 19 August 2015], it was noticed that the measures on social policy had led to nothing but enhancing poverty and deteriorating the economic situation for most people. And therefore the idea was introduced to create an expert commission to review the labour market institutions. The group was to orientate itself to the ‘best practice’ in Europe and its mandate was to realise this best practice in Europe without going back to the situation in Greece before 2010.

And this was decided in August 2015, but then it took about eight months before the Group was really constituted. The Greek government had no money to organise meetings and the Institutions were not very interested to install the Group. And so for eight months, nothing happened.

The composition of the group was quite interesting. Four members were nominated by the Greek government and four members were nominated by the Institutions. And the Chairman was one of the members nominated by the Institutions... The four people nominated by the Greek government were Gerhard Bosch from Germany, an economist; and three lawyers: Bruno Veneziani, from Italy; a Portuguese colleague,

António Monteiro Fernandes; and me. And we - let’s say tacitly - agreed, despite some small political differences, that what was done to the Greek people was horrible, and that we should do everything possible to correct it. And that was clear.

On the other side, were three economists. One from Portugal, Pedro Silva Martins, who actively participated in the deregulation campaign in Portugal in 2012. And there was a collaborator of the Spanish Central Bank, Juan Jimeno. These two people were very convinced neoliberals. And there was a Greek professor of labour law - Ioannis Koukiadis - who was not Syriza, but Pasok [the Greek social democratic party]. And there was the Chairman from the Netherlands - Jan van Ours - a labour market specialist, but in my impression more to the employers’ side...

And we were not treated very well by the EU Commission. The Commission organised the meetings, and there were a lot of moments where they showed us in an indirect way, we don’t like you!

CC: Did Greek trade unions and employers’ associations participate in the process?

WD: We had once a hearing of three days in Athens, and during this hearing both the employers and the trade unions came. We had discussions with both sides... One thing was very important: we had at that time as Greek Labour Minister Mr. Georgios Katrougalos... He managed to get a common declaration of the unions and the employers’ associations to re-establish collective agreements. And to re-establish a reasonable minimum wage which should be fixed by collective agreement. Not the State that fixes the minimum wage, but the social partners.

CC: That was during the review?

WD: Yes, that was very useful for us, that the Minister had the social partners on his side, especially on these central points of the work of the commission.

CC: Moving to the Group’s recommendations, what were the Group’s conclusions on specific issues regarding the right to strike and lockouts?

WD: As to the right to strike, we had a unanimous position - even with the neoliberals - not to change anything. And the situation in Greece is that the lockout is formally forbidden by the Constitution and the right to strike is guaranteed by the Constitution in a very broad way. There are, however, some court decisions which restrict this right to strike on grounds of proportionality, but it was not possible to propose to change the case law in favour of a larger right to strike. We could however say that there are enough limitations on the right to strike, that there is no need to have the right to a lockout. And ultimately even the employers were not interested in making changes to these laws.

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CC: That's interesting because the Group's report notes that 'the rules on industrial conflict remained unchanged during the years of the economic crisis in Greece'. So why did these issues come under review for the Expert Group last year?

WD: That was the IMF, who found out that there was a prohibition of lockouts in the Greek constitution and that the right to strike in Greece is well protected under law, and therefore they had the idea to change something.

But even our two neoliberal members [Pedro Silva Martins and Juan Jimeno] did not really try to do so. They said from time to time that we should open the lockout, or we should restrict the right to strike, but it was not a main subject and they did not fight for it. One important factor was that these people are economists, and the Greek labour expert [Ioannis Koukiadis] sided with us. And therefore the economists who were expected to propose restrictions on the right to strike, were in a very difficult situation. The lawyers all said, 'It's not possible and it's in contradiction with ILO Conventions' and so on! And therefore they didn't want to touch the problem...

CC: What different positions did the Group take on collective bargaining - for instance, on the ability of workers to undercut national or sectoral agreements?

WD: Our side felt that the old [pre-2010] system was a good one. But we could not say that we want to return to it, we could only propose improvements to it. Improvements would mean to make collective agreements generally binding, not only if 50 percent of all the workers are covered, but also when it is in the public interest. Because 50 percent is rarely reached in practice. And therefore we said: if there is a public interest to make it generally binding, then the government or the Labour Minister should be able to decide that the collective agreement should take a generally binding effect. And that was an important point.

We had a majority of six to two in favour of this possibility. The two neoliberals wanted to keep the current situation, because it favours more flexibility for enterprises. They wanted to ensure that an enterprise is able to react very quickly to developments in the market and a binding collective agreement is a restriction to that flexibility.

CC: And in the majority's recommendation on this issue, it was agreed to allow 'temporary deviations from these norms' under certain circumstances...

WD: Yes, under certain circumstances and only on the basis of a common decision of the social partners. That's the difference. Because right now, there is a very broad capacity to deviate. But it is the social partners who should effectively decide,

whether to make an opening clause. That's a German example in a certain way, and it means that deviations are made possible only in cases where there are very important issues at stake. Social partners can always decide, 'we make a collective agreement, but people may deviate from it under certain circumstances'...

We also did not comment in our report on the 'associations of persons', which was difficult to avoid, but it was a good solution, because even on our side, there were some people saying, 'Oh, it's not so bad to have these associations of persons, that they have the right to conclude a collective agreement, because they have to be independent of the employer...' What a crazy idea! You are never independent of the employer in a small enterprise with twenty people... But nevertheless, it was difficult and we had discussions for hours about it, without a consensual result, so finally we made a redaction of the text that made them superfluous. We did not prohibit them, but they no longer have any function [in our recommendations].

CC: What do you think are the prospects that the Expert Group's recommendations will be followed? The Group's report notes that 'with the current national rules, the erosion of national and sectoral collective bargaining has not come to an end and will even continue the next years'.

WD: We were quite optimistic, but the negotiations have been going on now for many months. On the other side, you have only crocodiles! That's the negotiation situation. And it seems that the Institutions are not at all willing to follow our recommendations, as far as I know... At the end of our work in Athens, I thought, we have a common declaration of the social partners, we have our recommendations, and it is the will of the Greek government. And even a member of the EU Commission had indicated their approval, saying 'let's do it, let's implement the proposals'. And therefore I was quite optimistic, but I'm less so now.

It takes time, of course, and you never know in the actual situation whether the European Union will suddenly re-discover Social Policy as a means to improve the integration within the Union... There have been some declarations in this direction. And this might influence the situation, and if it were to happen, I don't know whether the IMF would really attempt to veto it.

Notes

- 1 And as of 2012, the European Stability Mechanism (ESM)
- 2 Greek General Confederation of Labour (GSEE) v. Greece, Case No. 111/2014. Documents available at: <https://www.coe.int/en/web/turin-european-social-charter/collective-complaints-procedure>
- 3 'IMF Executive Board Concludes 2016 Article IV Consultation, and Discusses Ex Post Evaluation of Greece's 2012 Extended Fund Facility' February 7, 2017. Available here: <http://www.imf.org/en/News/Articles/2017/02/07/PR1738-Greece-IMF-Executive-percent20Board-Concludes-2016-Article-IV-Consultation>.

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