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# **Institutional Change in Greek Industrial Relations in an Era of Fiscal Crisis**

Horen Voskeritsian & Andreas Kornelakis

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# Institutional Change in Greek Industrial Relations in an Era of Fiscal Crisis

Horen Voskeritsian<sup>#</sup> and Andreas Kornelakis<sup>\*</sup>

## ABSTRACT

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The main aim of this paper is to contribute to the ongoing debate on the facets of the Greek crisis via an analysis of the changes in the institutional framework of the labour market that are introduced as a result of the EU/IMF mechanism for financial support. The paper tries to make sense of the immense transformations in the Greek industrial relations system and to evaluate the direction of change, using insights from the varieties of capitalism literature. In this strand of literature it is well established that the comparative institutional advantage and high economic performance of a country depends on its overall institutional arrangement and the fit between different institutions (including the industrial relations sphere). Thus, it is important to examine the current injection of liberal market elements in the Greek industrial relations realm vis-à-vis the wider institutional context. This will allow us to gauge the suitability and chances for the implementation of IMF's 'one-size-fits-all' policies.

**Keywords:** Austerity; Crisis; Greece; Industrial Relations; Varieties of Capitalism.

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# Institutional Change in Greek Industrial Relations in an Era of Fiscal Crisis

## 1. Introduction

For the past couple of years, Greece is going through the most important social, political and economic crisis since the transition to democracy (*Metapoliteusi*) in 1974. The signing of the Memorandum of Economic and Financial Policies (*Memorandum*), on May the 2<sup>nd</sup>, 2010, between the Greek government and the EC, the ECB and the IMF (the so-called *troika*), put Greece on a trajectory of unprecedented austerity measures whose consequences will be felt for a long period. Through the original Memorandum, Greece's creditors have pushed for important changes across two policy pillars: fiscal consolidation and the improvement of the economy's competitiveness.

The first pillar entails a drastic elimination of the budget deficit through cuts in public expenditure and increases in public revenues. To achieve the former, the agreement involved cuts in public investment and in public sector wages, a reform of the pensions system, and a general slimming of the public sector, while the latter is pursued via a restructuring of the taxation system and the fighting of tax evasion, the elimination of corruption, and the privatisation of a large section of public sector enterprises and utilities.<sup>1</sup> The second pillar, on the other hand, aimed at creating a more attractive environment for

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<sup>1</sup> It must be noted that the Greek government had already started implementing similar policies during the Memorandum's negotiations phase, in an apparent attempt to show its commitment in deep-cutting fiscal reforms. Law 3833/2010, which was voted before the signing of the Memorandum, cut down the civil servants' wages and pensions by eliminating the "thirteen" and "fourteenth" salary and pension, by setting an upper limit on public sector salaries, by drastically reducing overtime and other benefits, and by decreasing new hires, following the "1-5" rule (one hiring for every five exits).

investment. To this end, the government was bound to reduce the labour cost in the private sector, via a process of internal devaluation and through changes in the collective bargaining system, the opening up of any remaining 'closed professions', the simplification of the processes to set up new enterprises, and the elimination of bureaucracy. Most recently, the 'Medium-Term Fiscal Strategy', agreed on June 2011, further enhanced the original Memorandum agreement through the adoption of extra measures to attend to the above targets.

Since the eruption of the crisis in 2009 there has been considerable debate among academics and policy-makers with regard to the suitability of the policy-mix at EU-level (De Grauwe 2010; Mabbett and Schelkle 2010; Scharpf 2011) and the different facets of the Greek crisis (Lapavitsas 2010; Featherstone 2011; Monastiriotis 2011). The main aim of this paper is to contribute on the on-going debate via an analysis and evaluation of the changes in the institutional framework of the labour market that were introduced as a result of the Memorandum and of subsequent agreements. By implication, the paper has an exploratory character, trying to make sense of the immense transformations in the industrial relations system and to evaluate them by using insights from the varieties of capitalism (VoC) literature. In this strand of literature it is well established that the comparative institutional advantage and high economic performance of a country depends on its overall institutional arrangement (including the industrial relations sphere) and the fit between different institutions. It is thus important to examine the prospective changes in the Greek industrial relations context in relation to the other realities of the country. This will allow us to gauge the suitability and chances for the implementation of the IMF's 'one-size-fits-all' policies.

The rest of the paper is structured as follows. In the next section we present the changes in labour market institutions by dividing them into three phases, and we elaborate on the particular changes that they bring to the industrial relations system. The third section examines the possible effects the institutional changes may have on the Greek system of industrial relations taking into account the specificities of the Greek model of capitalism. The final section concludes and discusses avenues for further research.

## **2. Decentralising Greek Industrial Relations: From individual labour rights to collective bargaining institutions**

Discussions about flexibility and the liberalisation of the labour market are not new in the Greek political agenda. From the mid-1990s onwards, the employer associations urged for greater flexibility in the labour market and for the reduction of labour costs. Additionally, the mid-1990s and the early 2000s were characterised by several social dialogue attempts to alter the existing system, although all the proposed measures were quite moderate compared to the Memorandum-era policies (Featherstone 2011). The Troika was quite insistent on the need to reduce labour cost to boost employment through the decentralisation of collective bargaining and the introduction of wage and time flexibility. Its flagship in this effort was the demand to eliminate the role occupied by the industry-level agreements in the Greek system of industrial relations (see below), and to reform the mediation and arbitration system. To achieve higher flexibility, it pressed for changes in the collective dismissals regulations and for the introduction of flexible forms of employment.

The Memorandum (Law 3845/2010, Annex III, p. 12) outlined the Greek government's agreement on implementing deep-cutting and fundamental changes in the above themes. The government's aim was to render wages in

the private sector “more flexible to allow cost moderation for an extended period of time” (IMF 2010: 59), in line with the reforms it had introduced some months ago in the public sector. The reformation of collective bargaining regulation and the abolition of asymmetry in arbitration<sup>2</sup> were among the top of its priorities, followed by the introduction of flexible wages for young employees, the reform of the legislation on collective dismissals and on apprenticeship, and the establishment of an environment that would facilitate the use of part-time and flexible employment.

Despite the government’s agreement to the Troika’s demands, the social and political cost of the above measures did not allow – at least in the beginning – their full implementation. Although labour cost reduction was relatively feasible in the public sector (where wages were unilaterally determined by the Minister of Finance and were not negotiated with the unions) an analogous interference in the private sector would constitute a direct intervention in the institution of free collective bargaining.

Still, the government was bound to make the necessary changes in the institutional framework and thus indirectly influence the wage levels in the private sector. To better appreciate the extent and depth of the policies, one can classify them in three distinct phases. During the first phase, from May 2010 till December 2010, the government introduced changes in individual labour law, and prepared the ground for the redefinition of the institutions of collective bargaining. At this phase the government also exerted pressures to the social actors to negotiate a pay-freeze for the following three years. The second phase, from December 2010 till October 2011, was characterised by the introduction of a new legislation (Law 3899/2010), which was built upon the institutional grounds created in the previous phase and which altered the

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<sup>2</sup> I.e. the unilateral right reserved for some categories of unions to resort to arbitration. See p. 10 for a more detailed analysis.

established structure of collective bargaining and of the mediation and arbitration process. Finally, the third phase is characterised by the voting of Law 4024/2011, which further decentralises collective bargaining and puts Greek employment relations in a new trajectory. The common element of all phases is that they progressively allow for the decentralisation of collective bargaining institutions and alter the allocation of power between the social actors. However, the important question raised in this context is whether the decentralisation of collective bargaining will be able to achieve its stated aims and, if not, why? Before discussing the answer to this question in the next section, it is necessary to examine in detail the new framework for employment relations in Greece.

#### 2.1. Setting the ground: Flexible wages, flexible forms of employment and working time flexibility

The first phase of the institutional changes in Greek industrial relations is characterised by the government's attempts to modify the rules governing the individual employment contract and thus prepare the ground for further decentralisation of the collective employment relations institutions. As the government could not directly impose a wage reduction in the private sector, it focused on the alteration of several provisions in individual labour law such as the compensation of overtime work and flexible forms of employment, thus creating the necessary conditions for the indirect reduction of labour costs.

The law that ratified the Memorandum in the Greek legal system, *Law 3845/2010*, included several provisions regarding the status of collective agreements, the compensation of young employees, the policies on dismissals, and overtime compensation. The most important ruling was that of article 2 par. 7, which introduced the possibility of derogation from the industry level or the national collective agreements. According to the article,

and contrary to existing regulations, the terms and conditions of occupational or firm-level collective agreements were allowed to deviate from the ones prescribed at the industry or national levels. The wording of the provision could effectively abolish the national collective agreement and render the industry-level agreements redundant (Mpakopoulos 2010). However, the rulings of the law were quite vague and were left to be further specified in later laws or presidential decrees.

The first such specification came with *Law 3846/2010*, which attempted to introduce elements of ‘flexicurity’. Its major focus was the settlement of the nature, conduct and compensation of part-time work, making it cheaper and easier for an employer to use these non-standard employment forms as well as the services of temporary employment agencies. Moreover the law also dealt with the management of working time, allocating the right to negotiate working time changes not only to the trade unions but also to an association of employees. Until then, the latter body had quite restricted rights compared to a trade union, as it did not have any rights to negotiate wages or to call strikes, and may not have necessarily been representative of the enterprise’s employees<sup>3</sup>. For example, according to the new law, an association of five employees, in a company that employs at least 20 employees (i.e. one-fourth of the existing staff), is able to negotiate changes in the working time for the whole workforce.

Although the above law set the ground for the adoption of flexible forms of employment, thus indirectly helping reduce labour costs, *Law 3863/2010*, voted in July 2010, adopted some direct measures to that effect. The compensation for, and the calculation of, overtime compensation was significantly reduced, and the law introduced several provisions regarding the

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<sup>3</sup> The status of the association of employees was altered a year later, with *Law 4024/2011* (see below).

compensation of young employees. Already since May 2011, Mrs Louka Katseli, the then Minister of Labour, had promised to the Federation of Tourist Enterprises (SETE) that a law would soon be passed to allow wages of any worker between 18 and 25 years of age to negatively deviate around 20% from the ones agreed at the industry level<sup>4</sup>. Law 3863/2010 went a step further, allowing an employer to hire apprentices between the ages of 15-18 with wage-rates 30% below the national minimum wage, or to hire young workers below the age of 25 at a wage-rate of 84% of the national minimum wage. These practices further advance a provision of Law 3845/2010 according to which an employer could hire unemployed young workers up to the age of 24 for a period of 12 months at wage-rates 20% below the national minimum wage, and are reminiscent of the *Contrat Première Embauche* that was attempted to be introduced in France in 2006 (GSEE 2011).

As part of its flexibility agenda, the government also altered the dismissal protection framework, to make it easier and cheaper for companies to lay-off employees. Towards this end, two fundamental changes were introduced through Law 3863/2010: the first, and most important, was the increase of the upper boundary regarding group dismissals. Prior to the new law, companies employing between 20 and 150 employees were allowed to lay-off up to four employees per month, whereas companies with more than 150 employees were allowed to lay-off up to 2% of their workforce per month. Under the new regime, the first group can lay-off up to six employees per month, and the latter up to 5%, and not more than 30 employees, per month. Second, the new law introduced important changes in the calculation of the dismissal compensation, rendering the whole process much cheaper for the employer.<sup>5</sup>

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<sup>4</sup> *Eleftherotypia*, 21 May 2011.

<sup>5</sup> In effect, the new law changed the warning time that is required before firing an employee. In Greece, compensation is calculated based on the years an employee works for a company.

All the above changes, with the exception of article 2 par. 7 of Law 3845/2010, were attempts to restrain and control labour cost by altering several provisions of the existing structure of individual labour law. Yet they were inadequate to control the major source of labour cost increases, i.e. the collective agreements. To this end, two important interventions were made during this first phase of decentralisation. The first was the indirect governmental pressure to the social actors to negotiate miniscule pay increases for the next three years, which ultimately accounted for a three-year pay-freeze. The negotiations for the signing of the 2010-2012 national collective agreement were quite turbulent, as the main employers' association (SEV) stalled the procedure, whereas the other two employers' associations (GSEVEE and ESEE) adopted milder and, in some cases, worker-friendly positions<sup>6</sup>. In the end, the social partners agreed that the "13<sup>th</sup> and 14<sup>th</sup> monthly wages" would be retained<sup>7</sup>, and that any increase in the national minimum wage would be based on the Eurozone's Harmonised Index of Consumer Prices (HICP) and not on the national consumer price index (CPI).<sup>8</sup>

The second important intervention, which set the tone for the changes that followed in phases two and three, was the direct interference of the state to the content of the decisions reached by the Organisation of Mediation and Arbitration (OMED).<sup>9</sup> Article 51 of *Law 3871/2010* annulled all arbitration

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Depending on this, notice periods also differ. By reducing notice periods the amount of compensation can be reduced, in some cases, by 50%.

<sup>6</sup> SEV (*Σύνδεσμος Επιχειρήσεων και Βιομηχανιών - ΣΕΒ*) is the national confederation representing big businesses and industries; GSEVEE (*Γενική Συνομοσπονδία Επαγγελματιών Βιοτεχνών Έμπορων Ελλάδος - ΓΣΕΒΕΕ*) is the national confederation representing SMEs and smaller industries, and ESEE (*Εθνική Συνομοσπονδία Ελληνικού Εμπορίου - ΕΣΕΕ*) is the national confederation representing merchants.

<sup>7</sup> In Greece, all full time employees (in both the public and the private sector) receive two extra wages: a full wage before Christmas (as a Christmas bonus), and two half-wages before Easter and before their summer leave.

<sup>8</sup> In 2010, the HICP stood at 1.6%, whereas Greece's inflation rate was 4.7%.

<sup>9</sup> OMED was founded in 1992 as a tripartite institution of the Greek industrial relations system to deal with industrial disputes between trade unions and employers. Law

decisions that offered wage increases during 2010, or might offer any increases in the first semester of 2011. Moreover, all arbitration decisions from the 1st of July 2011 until the end of 2012 cannot offer wage increases above the level of the annual percentage change of the HICP. Effectively, this provision places a tight control on the arbitrators' judgement and compels them to policies of wage restraint.

Despite these important changes in the employment relations institutions, the Greek government was, apparently, slow in implementing the complete agreement package, as no specific policy had been decided on the regulation of collective bargaining or on the reform of the mediation and arbitration process. Indeed in their first and second evaluations, in August and November 2010 respectively, the Troika was quick to indicate that, although “[M]ajor labour market reforms are now advanced well ahead of the December 2010 deadline ... labour market rules could be brought further into line with best practices in other European countries and the common principles on flexicurity” (Commission 2010a: 42). More specifically, the policy recommendations focused on four major axes: first, on the decentralisation of collective bargaining via the promotion and the institutional strengthening of firm level bargaining; this did not only entail the supremacy of the firm level agreements over the sectoral ones, but also the elimination of the possibility “for the MoL [Ministry of Labour] to extend coverage of sectoral and occupational agreements to firms and workers not represented in negotiations” (Commission 2010b: 30). Second, on the reform of the arbitration process to “operate according to transparent and objective principles and with non-interference from the government” (Commission 2010a: 42). Third, on further facilitating the use of part-time work and of other flexible forms of employment, and on the elimination of any temporal limits in

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3899/2010, however, significantly marginalises the role of the State in its structures, thus rendering it a bipartite institution.

the use of the services of temporary work agencies; and, finally, on the further promotion of flexible time-management.

The government had already agreed on the above lines since August the 6th (MoF 2010a) – before the publication of the Troika’s first report – by stating that “further measures will be taken to reform collective bargaining, including the elimination of the automatic extension of sectoral agreements to those not represented in the negotiations” (*ibid.* 7) and by promoting the adoption of legislation “to introduce symmetry in the arbitration system, while strengthening its independence and transparency” (*ibid.* 7), a position which was reiterated in its second *Memorandum of Understanding* in November 2010 (MoF 2010b: 11). The second phase of the institutional changes, therefore, was dedicated to the achievement of the above targets, amidst a setting of unprecedented industrial and social conflict.

## 2.2. Decentralising collective institutions: the reform of collective bargaining and of mediation and arbitration

In December 2010 *Law 3899/2010* was voted by the Greek parliament dealing, among other things, with two important issues: the structure of collective bargaining and the nature of mediation and arbitration. The importance of the new law for the institutions of collective bargaining cannot be overstated, as it brought fundamental changes to the existing system of collective bargaining and constituted the first actual attempt for the push towards its decentralisation. As mentioned before, the newly introduced legislation was either vague regarding the shape of collective bargaining institutions, or dealt primarily with individual labour rights. By contrast, the new law aimed to address the major issues underlined by the Troika’s reports, and to fill the

gaps of previous legislation – especially of Law 3845/2010 regarding the status of collective agreements.

The first important change introduced by Law 3899/2010 was the establishment of a new type of collective agreement called the “Special Operational Collective Agreement” (SOCA), which could be applied in companies that faced dire financial strains. The SOCA was a construct created by the Ministry of Labour to allow for the derogation of wages from the ones signed at the sectoral level without, however, completely abolishing the latter’s role in the system of collective bargaining. The SOCA could be signed either by the firm’s union or, in case such a union did not exist, by the local sectoral union or the national sectoral federation.

Up until then, the system of collective bargaining was based on four types of collective agreements (Law 1876/1990): the national agreement, which set the minimum wage and the minimum terms and conditions of employment, the national sectoral and the national occupational agreements, the local sectoral and the local occupational agreements, and the firm-level agreement. Law 1876/1990 established a hierarchy among these different kinds of agreements, according to which the more decentralised agreements overruled the more centralised agreements if, and only if, the former’s terms and conditions of employment were better than the latter’s. For example, for a firm level agreement to be implemented, its content should be either more advantageous to employees or of the same extent as the one agreed at the sectoral level, otherwise the latter would apply. Moreover, in the case a sectoral or occupational-level agreement was signed by employers (or their respective associations) that employed 51% of the workforce in the particular sector, the law allowed for the extension of the agreement to all the workers in the sector (or occupation).

With the introduction of the SOCA the terms and conditions negotiated under this agreement were allowed to deviate from the ones agreed at the industry level but not from the ones agreed at the national level. This new construct, therefore, abrogated the provision of article 2 par. 7 of Law 3845/2010 (see above), and the wage floor set by the national collective agreement was protected and could not be overruled in any case. Moreover, any wage reduction below the levels prescribed by the sectoral agreement was deemed illegal, unless agreed under a SOCA. For a SOCA to be valid, however, it should be submitted, together with a justification for its existence, to the Council of Social Control of the Labour Inspectorate, which opined on the agreement's necessity, but did not have the right to prohibit it or alter it in any way.

The rationale behind the introduction of this new form of collective agreement was to allow companies facing serious financial problems to reduce wages below the industry's threshold and, therefore, to improve their situation. The 'favourability principle', according to which an employee's terms and conditions of employment were determined by the most favourable collective agreement, was now lifted in favour of the SOCA. As Leventis (2011: 98) argued, the legislator's aim was to provide the opportunity to a company facing financial strains to adjust the terms and conditions of employment to the market conditions, without being confined by the agreements signed at the sectoral or occupation level. The ultimate goal was to assist companies in the verge of bankruptcy to survive and, consequently, to preserve jobs. Contrary to the Troika's initial requests, the law adopted a more social perspective by not legalising the move towards the complete decentralisation of collective bargaining, a decision that reflected the internal conflicts and pressures the government faced from its own party members, and from the trade unions.

Apart from its focus on collective bargaining, the new law also introduced some important changes in the system of mediation and arbitration. The restructuring of the arbitration process was central in the initial Memorandum negotiations and in the Troika's consequent reports, and revolved around two interconnected issues: the need to eliminate the asymmetry in the arbitration process, and the need to curb the – supposed – subjectivity of the mediators and arbitrators. This is evident both in the original Memorandum (Annex II of Law 3845/2010, p. 1346) and in all the laws that preceded Law 3899/2010 (see article 73 of Law 3863/2010 and article 51 of Law 3871/2010).

Asymmetry is a legal term that prescribes who, and under what conditions, has the right to appeal to arbitration. According to the older Law 1876/1990, to reach the arbitration stage the two parties had to pass through mediation, and only when this had failed the former could be activated. However, in the case of failing negotiations at the national, sectoral or occupational level, only the trade unions had the right to appeal to arbitration if the employer had rejected the mediator's proposal, or had not participated in the mediation process. Asymmetry, therefore, concerned the unilateral right reserved for the above unions to appeal to arbitration<sup>10</sup>. The employers' associations had always pressed for the elimination of this 'inequality' in accessing arbitration. In 2003, for example, the Federation of Industries of Northern Greece (SVVE) appealed to the European Court of Justice regarding the asymmetry in reaching arbitration, arguing that it is an "un-free process"<sup>11</sup>. Under the auspices of the new law, the asymmetry was lifted, thus making it possible for any negotiating party to resort to arbitration. Although this looks like a just decision that creates a balance in the negotiation process, most probably it will lead to a deterioration of the institution of arbitration and the creation of

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<sup>10</sup> Asymmetry did not exist for negotiations taking place at the firm level or at publicly owned enterprises (DEKO), where the employer could also revert to arbitration if the negotiations failed.

<sup>11</sup> *Eleftherotypia*, 18 May 2003.

further imbalance in the relations between the two parties. To better appreciate this point, however, it is crucial to understand why the 'asymmetry' existed in the first place.

The previous law on mediation and arbitration, Law 1876/1990, was an innovative law that replaced an obsolete and rigid system of arbitration, regulated by a law from the 1950s (Law 3239/1955). Until 1992, when OMED was established, any negotiation that could not result in an agreement was dealt by the labour courts in a context of compulsory arbitration. The two parties did not have the opportunity to resolve their differences in an intermediate stage and were obliged to accept the court's ruling. Law 1876/1990, however, introduced the notion of mediation as an intermediate stage before reaching arbitration. The explicit intention of the legislator was to promote social dialogue and collective bargaining, and to help the parties reach a mutually accepted agreement. As Kazakos (1998: 132) argued, within this context, mediation retained a central role and arbitration became an auxiliary right, a safety valve in case the two parties could not reach an agreement.

Since the majority of collective agreements were signed at the national, occupational and (after their introduction by Law 1867/1990) sectoral level, the legislator wanted to ensure that the two parties would exhaust all possibilities for reaching an agreement before resorting to arbitration. The clause that forbade the employers' associations at these levels to appeal to arbitration served exactly this purpose (Kazakos 1998: 131 ff.). Given the power imbalance in the employment relationship, the legislator chose to benefit the trade unions with the right to unilaterally revert to arbitration if they encountered an unbendable employer's association, and the negotiations reached a deadlock. This right was, in other words, a 'weapon' at the hands of the unions to persuade the employers to take negotiations

seriously and to approach the negotiating table in a cooperative way. To countervail this right imbalance, however, the legislator suspended the right to strike for ten days from the day the unions appealed to arbitration (Kazakos 1998: 137).

How far this regulation helped to promote social dialogue is a contested issue. Ioannou (1995; 2011) for instance, argued that in many cases Law 1876/90 replicated the old arbitration system as both parties used mediation as an intermediate step to eventually reach arbitration. Although this has undoubtedly occurred in many cases, presumably in negotiations where the perceived conflict between the two parties was so intense that a negotiated agreement was impossible to be reached by default, OMED's data suggest that the system of mediation has contributed to the signing of agreements between the two parties, showing that some kind of accord can be reached. For instance, though compulsory arbitration accounted for about 42% of the cases initially submitted for mediation in OMED between 1992-2010, in terms of the total number of collective agreements signed in Greece at that period they constituted a mere 15%, a significant change from the situation prior to the establishment of OMED where compulsory arbitration decisions accounted for 56% of the total collective agreements signed in the country (OMED 2010: 11).<sup>12</sup>

Apart from altering the access to arbitration, the new law also modified the subject matter of the arbitration decision (Leventis 2011). Although under the previous Law 1876/1990 the arbitrator could regulate any aspect of a collective agreement – i.e. both its substantive and procedural nature – the new law restricts the arbitrator's ruling only at the regulation of wages, leaving the rest substantive issues (such as working hours, benefits, overtime

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<sup>12</sup> During 1992-2010, 6761 collective agreements were signed, 997 of which were due to compulsory arbitration (i.e. 14.7%).

compensation, promotions etc), as well as the procedural ones in the remit of negotiations between the parties. Moreover, the arbitrator's proposal must take into consideration "the financial condition and the development of the establishment's competitiveness" (article 16 par. 5 of Law 1876/1990 as replaced by Law 3899/2010). In combination with the restriction on the level of wage increases imposed by article 51 of Law 3871/2010 (see above), the arbitrators' decisions are confined to a narrow financial rationale.

Although in the past arbitrators' decisions could take into consideration the weaker party's demands and position (conventionally, labour) the new law's focus on the company's financial sustainability raises important barriers in reaching socially 'just' agreements. The survival of a company in the verge of bankruptcy entails several benefits for all the company's stakeholders; however, the restriction the law imposes on the content of the arbitrators' decision may generate a series of inequalities. Cutting costs through wage freezes, or wage reductions, is certainly one way of dealing with a financially troubled company, but so is the rationalisation of production or changes in the labour process (e.g. on the number of shifts, breaks, reduction of working hours etc.) or in other aspects of pay (e.g. a change in the calculation of overtime compensation). The new law does not allow for any such interventions, thus making the (downward) manipulation of wages the only alternative to bankruptcy.

Despite these important changes in the core institutions of collective bargaining, the Troika deemed that the government was lacking behind in the full implementation of the original Memorandum agreement. As the Commission noted in its third evaluation report in February 2011, the "new labour law adopted in December has been a positive step forward but further adjustment may be necessary", as the SOCAS are "a tool for only limited wage decentralisation targeted to firms in difficulty, rather than ... a powerful

instrument to increase employment and improve competitiveness. The government has not legislated the elimination of the extension of sectoral collective agreements to all firms in each sector” (Commission 2011a: 33). Indeed, the SOCAs could only be implemented in companies that faced important financial strains and the opining role of the Labour Inspectorate ensured that this right would not be exploited. The Troika argued that this was an unnecessary obstacle to decentralisation proper, as “it generates unnecessary red-tape, and a negative opinion may create social and political stigma” (*ibid.* 33). Thus, to ensure that “wages are in line with productivity and the specific conditions of each firm” (*ibid.* 33), the way forward should include four facets (*ibid.* 34 & 55): (i) the elimination of the extension of sectoral and occupational agreements to parties not represented in negotiations, (ii) the introduction of legislation that would facilitate the establishment of firm-level trade unions, (iii) the adoption of legislation to allow the greater use of fixed-term contracts, and (iv) the amendment of Law 3846/2010, to allow for greater flexibility in working-time management.

Although the last two points were addressed in Law 3986/2011 (the, so-called, ‘Medium-Term Fiscal Strategy’ – Μεσοπρόθεσμο Πλαίσιο Δημοσιονομικής Στρατηγικής), which further institutionalised flexible employment and flexible working time arrangements, the settlement of the first two points, due to their complexity and serious social nature, was postponed for a later date. As the Commission pointed out in its July 2011 report (Commission 2011b: 39-40), the SOCAs did not yield the expected results, due to several ‘restrictions’ of the law, the most important being the intervention of sectoral unions in the process. Therefore, as the Troika had already overtly stated in their previous reports, the government needed to facilitate the establishment of firm-level negotiations and to lift the influence of the Labour Inspectorate in the process.

### 2.3. Decentralisation proper: the marginalisation of sectoral collective agreements in the Greek system of industrial relations

The last phase (thus far) of the institutional changes in the employment relations system is characterised by the adoption of further decentralisation policies, in line with the Troika's recommendations. In October 2011, amidst a political crisis and pending the sixth instalment of the loan, the government voted a law that radically changed the employment relations conditions in the public sector and included an article that paves the way for the neutralisation of sectoral agreements (Law 4024/2011). The new law introduces several fundamental reforms in the system of collective bargaining, and seems to address the major points set out by the Troika in its July report<sup>13</sup>.

Indeed, the government decided to adopt the Troika's recommendations regarding the SOCAs, and eliminated them altogether. Instead of signing a 'special' firm-level agreement, *any* firm (and not only the ones facing financial strains) can now sign a firm-level agreement that, for the duration of the Medium Term Fiscal Strategy (i.e. until 2015), may prevail over the sectoral agreement *even if it contains worse terms and conditions of employment than the latter*; the firm-level agreement, however, cannot contain provisions worse than the ones agreed at the national level. Moreover, the sectoral or occupational agreements cannot be extended to all employees of the said sector or occupation, contrary to the practice thus far. Therefore, to be

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<sup>13</sup> When we were putting the finishing touches on the manuscript, the Papadimos' government re-opened the issue of the renegotiation of the minimum wage between the social partners. Although all four social partners were against the elimination of the national minimum wage, there is strong belief that a redefinition of the context of wage will take place in the next months. As Mr Daskalopoulos – SEV's president – said: "...SEV will do whatever it takes not to hurt the minimum wage. What we are called to do in this dramatic economic juncture and in this critical time is to see how the average cost of labour can be formed at a different equilibrium point that will help employment and production competitiveness" (our translation).

(<http://www.sev.org.gr/online/viewNews.aspx?id=2018&mid=8&lang=gr>, accessed on 7 January 2012).

covered by a sectoral agreement, an employer must be represented by (i.e. be a member of) the employers' association that co-signed the agreement.

These two provisions set the bases for the decentralisation-proper of collective bargaining, as they allow companies to sign firm-level agreements that are not in any way bounded by the wage levels agreed at the sectoral level. To further facilitate this move, the new law extends the right to sign collective agreements to companies employing less than fifty employees, or to companies with no firm-level trade unions. In this case, a firm-level agreement may be signed by an *association of employees which represents at least 3/5 of the company's employees*, a right that until now was reserved either for the firm-level unions, or for the local or national sectoral unions. Through this provision, the legislator ensures that the sectoral unions will be absent from the process and the employers will be able to negotiate a derogation in the terms and conditions of employment from the sectoral agreement in the 'protective environment' of their companies.

The adoption of these provisions obviously facilitates the signing of collective agreements at the firm level without the restriction imposed on the employers by the SOCAs. From now on any company (and not only the ones that faced financial strains, as was the case under the SOCAs) may sign a firm-level agreement offering worse terms and conditions of employment than the ones agreed at the sectoral level, without facing any interventions either from the sectoral unions or from the Labour Inspectorate. The establishment of a second negotiating party at the firm level – the association of employees – further simplifies the process, for the foundation of this body is easier and faster than the formation of a trade union. In cases where a trade union also existed in the company, the association of employees may constitute an intra-firm rival to the existing structure and prove to be a more 'reliable' partner for the employer. Yet, as with the adoption of all the previous measures, the

success of this one is not necessarily guaranteed. The logic of decentralisation and of the internal devaluation the Troika promotes, apart from its various theoretical and empirical problems (e.g. Ioannides 2010), may not necessarily yield the results expected by the government or the Troika, as these are expressed in the latter's reports and in the preamble preceding each law (i.e. the preservation of jobs through the reduction of labour costs and the creation of new placements through the development of investments). To see why this is so, it is necessary to examine these changes in the light of Greece's specificities.

### **3. Institutional Change and Path Dependence**

Having presented the different facets of institutional change, the pertinent question becomes: will these changes succeed in yielding the expected results? Although we cannot fully answer the question, one has to differentiate analytically between institutional changes and outcomes: the institutional changes alter the range of options for the actors but this may not lead mechanistically to changing practices in the labour market. Even more, one could go even further and doubt the capacity of the measures to achieve their stated aims, i.e. to reduce labour costs, make the economy more competitive, attract investment, and eventually limit unemployment. In a nutshell, the former investigation is primarily concerned with the adoption of the proposed measures by the firms and their employees, whereas the latter contests the logic of the policy measures and the theoretical premises on which they are based.

This section relies on insights from the VoC literature (see, among others, Hall and Soskice 2001; Amable 2003; Hancké, Rhodes et al. 2007) to gauge the shortcomings and speculate on the possible implications from this institutional

change. Our evaluation of the institutional changes in the previous sections substantiates the view that the Greek system of industrial relations is speedily liberalised and pushed towards convergence to the Liberal market model of decentralised bargaining. However, we contend that this direction of change will not yield the expected results, because the changes ignore the path-dependencies and specificities of the Greek model of capitalism. According to Hall & Soskice (2001) the two “institutionally coherent” models of capitalism – the Liberal Market Economies (LMEs) and the Coordinated Market Economies (CMEs) – are capable of high economic performance, because their institutional arrangements are harmonically characterised by ‘complementarities’. The concept denotes tightly coupled institutional arrangements; the industrial relations system does not operate in a vacuum, but is intimately linked to other institutional spheres such as the training system, the product markets, corporate governance and the innovation system.

Hence, the move towards liberalisation of industrial relations institutions will not necessarily lead to any type of competitive advantage, if the other elements of the model that contribute to comparative advantage are missing. Greece, just like other Mediterranean model countries (Amable 2003; Almond 2011: 54) is described as having strong employment protection, especially in large firms, and fringes of flexible/informal employment in small firms; bank-based access to funding; underdeveloped financial markets and a weak vocational training system with emphasis on low and general skills. As a corollary, it lacks the crucial ‘complementarities’ that contribute to high economic performance (Molina and Rhodes 2007).

One of the main lessons from recent research in varieties of capitalism is that institutions are embedded in a wider societal context, and cannot just be transplanted from one country to another. But this argument begs the

question: what are those specificities in the Greek case that will likely influence the implementation of the changes? We argue that there are three distinct elements of the Greek model of capitalism that make ‘one-size-fits-all’ policies unsuitable for such a context.

### 3.1. Lack of collective processes experience at the firm level and the corporatist character of Greek trade unions

The new provisions on collective negotiations have created a new representation arena which, until today, remained at the periphery of the collective bargaining processes. Until recently, the institutional framework of Greek industrial relations did not provide the opportunity to employees in small and very small companies to form a firm-level union since, according to Greek civil law, the formation of a union requires at least twenty signatories. Even if a union was formed, however, the previous framework allowed collective agreements to be signed only in companies employing more than fifty employees. In a country where 98% of its companies employ less than ten employees (Giannakopoulos, Laliotis et al. 2011), it is fairly obvious that a vast majority of the labour force never had any experience of firm-level collective processes. The industrial relations actors, therefore, face an important institutional change that creates new structural conditions in the industrial relations system that may prove quite difficult to manage: workplaces with no prior experience in collective processes – be it union organising or collective bargaining – are suddenly faced with the possibility of engaging in social dialogue.

Labour cost reduction according to the decentralisation model purported by the Troika and the government requires the existence of collective institutions at the firm level. An important question, therefore, concerns the possibility of the emergence of such structures in establishments with no prior experience

of collective processes. Under the current conditions in the labour market and the industrial relations system, such a prospect is rather bleak; within a context of *legitimate informality* in the handling of industrial relations issues – as is the one currently in existence – it will be very difficult for firm-level collective institutions to emerge. If such a prospect is to materialize, it will require the assistance of the already existing structures – i.e. of the sectoral or occupational trade unions.

Yet, at the current juncture, these bodies seem unable or unwilling to organise the workforce at the firm level. Trade union density stands at around 28% (18% in the private sector)<sup>14</sup>, with unions having a strong presence in the civil service and the public sector enterprises, and in ‘traditional’ manufacturing or services industries (such as electricity, banking, telecommunications, railways, etc.). However, in sectors characterised by insecurity and precarious employment, the unions’ presence is almost non-existent leaving a majority of this workforce un-unionised (Kretsos 2011). The inability of the unions to address this representation gap is due to their strategic choice to concentrate their pressure on the state and to engage in corporatist settlements in the political arena, rather than on the workplace.

### 3.2. The adversarial context of industrial relations

Another endemic characteristic of the Greek industrial relations system is the adversarial context of relationships between firms and employees. Thus, even if a collective body emerges in the workplace, it does not necessarily mean that a collective agreement will be voluntarily signed, for the employer may be unwilling to do so. Although the employers do not have the right to unilaterally decline an invitation to collective bargaining, the new institutional

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<sup>14</sup> EIROOnline: [http://www.eurofound.europa.eu/eiro/country/greece\\_3.htm](http://www.eurofound.europa.eu/eiro/country/greece_3.htm). Accessed on 19 December 2011.

framework allows them a range of other options. In the case the negotiations between the employer and the employees fail, both parties can revert to mediation where the negotiations may continue until an agreement is reached or until the mediator issues a decision. Although, according to the older provisions, the employer has an interest in reaching an agreement at this stage, the new arbitration context makes it very attractive for the employer to act in a non-cooperative way and deny the mediator's proposal. Employers can use the new context to neutralise the firm-level union by appealing to arbitration since, at this stage, the arbitrator (i) is obliged to reach a decision based on the company's financial situation, (ii) cannot provide any wage increases above the annual level of the European inflation, and (iii) can only regulate wages, leaving the rest aspects of the collective agreement (e.g. benefits, working time arrangements etc.) unregulated and on the two parties to negotiate. Yet, in such a conflictual context, to reach a common agreement on the aforementioned issues after the arbitration stage seems highly unlikely. In this case, if a new collective agreement is not signed within six months from the expiration of the old one, the employer can implement either the provisions of a less favourable collective agreement or to revert to the unilateral management of the employment relationship through the implementation of individualised employment contracts.

The individualisation of the employment relationship seems to be the most probable result of the new measures, as the employers, from their part, will make slight efforts (if at all) in encouraging collective processes in their enterprises. There are three important reasons for this: *first*, Greek employers seem reluctant to share power with their employees, and the establishment of a collective representation implies exactly this, as through the negotiation process the employers share information with their staff and provide them with voice in certain aspects of their employment contract. *Second*, firm level bargaining creates a costly and inflexible situation, for a collective agreement

establishes common rules for the whole workforce, and the employer cannot easily deviate from its rulings, thus creating an inflexible situation. *Third*, data thus far reveal that the employers utilise the provisions of Laws 3846/2010 and 3863/2010, especially regarding the implementation of flexible forms of employment (SEPE 2010).<sup>15</sup> This behaviour implies that employers are very prone in adopting measures to reduce their labour costs without much consideration to the effects their actions may have on their employees' efficiency and productivity. One may suppose, therefore, that if the employers can choose between collective bargaining and individual bargaining, they will opt for the latter, which is more flexible and its contents easier to manipulate.

### 3.3. The informal economy and state incapacity for effective labour inspection

Finally, employers retain the option to 'exit' from the formal economy, despite the various institutional changes. The continued state incapacity (or indifference) to enforce labour law to free-riding companies may increase the number of firms opting for that option. The shadow economy is estimated at about 30% of the GDP and, in this sphere, no law applies and undeclared work is widespread with students, women, and especially migrants working under conditions of unlimited flexibility. In the absence of credible sanctions and effective disincentives towards undeclared work, the cost-benefit analysis of firms is likely to lead them to the 'low road' of informality. Negotiating reduced wages 'under the table' rather than going through the process of negotiating with associations of employees may look more attractive.

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<sup>15</sup> According to the 2010 Labour Inspectorate Report (p.56-8), in 2010 part-time or subsidised short-time work contracts have increased by 25% and 56% respectively since 2009, whereas, for the same period, the conversion of full-time contracts to part-time and short-time work contracts has experienced an increase of 61% and 56% respectively.

In a nutshell, the move towards the more decentralised bargaining structure is likely to be mediated by existing specificities and path-dependencies of the Greek system of industrial relations. Unlike the ‘controlled decentralisation’ that is envisaged by the government and the troika, we will likely observe a process of *uncontrolled, informal, and individual decentralisation*. At this juncture, the costs of collective bargaining are too high for firms to bear; probably many firms will be less likely to become members of employers associations to circumvent the obligation to apply collective bargaining minima, and many may choose the road most commonly travelled – i.e. that of individual negotiations and individual employment contracts. The Greek labour market will experience a steep increase of individual contracts, a downgrading of the institution of collective bargaining both at the sectoral and at the firm level, and a rise in flexible and unregulated forms of employment, not only in the already precarious workforce but in segments of the, until now, ‘protected’ employees.

#### **4. Conclusion**

Undoubtedly, the global economic crisis has the potential to destabilise models of capitalism, and certainly arrangements in the industrial relations realm. Yet, there is little consensus on where the countries are heading or how to conceptualise the mechanisms of institutional change. The countries from the Mediterranean model of capitalism are tragic protagonists in the Euro-zone crisis. Greece and Portugal have already been bailed out by the European Union and the International Monetary Fund (IMF), while Spain and Italy are considered as the top candidates for a ‘contagion’ from the sovereign debt crisis. Intuitively, this is not totally surprising. Given the ‘incoherence’ in the political economy of the Mediterranean model of capitalism, the countries’ competitiveness problems become evident and well manifested.

Although the current sovereign debt problems cannot be fully explained by VoC insights, the VoC framework suggests that the absence of ‘institutional complementarities’ will exacerbate the problems of competitiveness in Mediterranean capitalist countries. Thus, their vulnerabilities will be exposed in the context of a deepening recession, and global markets will doubt their ability to repay debt, increasing the ‘spreads’ and further downgrading their credit ratings.

In the industrial relations realm, the current pressures from global financial markets will likely intensify the push towards liberalizing the wage bargaining institutions within the Mediterranean capitalism countries. The Greek industrial relations system is a case in point. The signing of the Memorandum radically alters the existing institutions of the labour market, since the relaxation of the limits in collective dismissals, the transformation of the process and content of mediation and arbitration, and the possibility for derogation of sectoral agreements establish the necessary conditions for the liberalisation of the employment contract.

Yet, it was argued that the changes are unlikely to fulfil their stated intentions, let alone produce ‘comparative advantages’ and increase the competitiveness of the Greek economy, as they disregard the specificities and path-dependencies of the Greek model. More specifically, the changes ignore that Greece entails a protected segment in the labour market along a sizeable informal sector, and lacks effective monitoring and sanctioning mechanisms that contribute to the prevalence of informality. The institutional pre-conditions for striking a successful comparative advantage are missing and, therefore, the liberalization of industrial relations will probably lead to the ‘worse of both worlds’: low economic performance and low social cohesion. Greek firms are more likely to respond in a path-dependent manner by

individualising the employment contract or by circumventing the institutional framework using informal or illegal practices.

Admittedly, our paper focused on narrowly examining the direction of institutional changes and ignored the underlying interactions between involved actors. In the past, institutional change in models of capitalism was perceived as an incremental and path dependent process, with the pressures of global markets from intensification of competition mounting slowly over time. The reforms and institutional changes were a result of the interactions between domestic actors (business, labour, and the state), who carved out their strategies and forged coalitions which drove the changes in the institutions.

Instead, we now observe that changes are swift and abrupt, and that global financial markets are able to put tremendous pressures on nation-states. Institutional change in the bailed-out EU countries is not anymore the outcome of interactions between domestic actors, and national governments seem to be limited to a second-mover role and are forced to pursue reforms and changes that were not necessarily part of their agenda. The involvement of international actors in domestic institutional change highlights the necessity for a renewed research agenda that entails studying the strategies and interactions between both domestic and international actors with regard to institutional change.

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