

# **The governability of collective bargaining. The case of Spain**

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## **ABSTRACT:**

The aim of this article is to analyse the concept of governability of collective bargaining proposed by Traxler, Blaschke and Kittel (2001) and to demonstrate its explanatory capacity and limitations in the Spanish case. Governability is today an important subject that should be taken into account in the reform of industrial relations systems and in the debate between centralisation and decentralisation of collective bargaining in Europe. Our main hypothesis is drawn up in line with the institutionalist approach. We will argue and document with the results of collective bargaining, that the Spanish system of collective bargaining, in spite of the organizational weakness of the unions and of the employers associations, is governable thanks to the role of the state, the institutions, the legal ordering, as well as the tradition and the custom.

Key Words: Governability; collective bargaining; power; domain; capacity of control; representation; representativity; coverage; wage, wage dispersion.

## **INTRODUCTION**

Centralised collective bargaining models that have strong organisational structures favouring governability (Austria and the Scandinavian countries) have contrasted with decentralised models of bargaining (Great Britain) that make governability more difficult (Traxler, 1996). We maintain that beyond the issue of centralisation or decentralisation of collective bargaining, the governability of an industrial relations system can also be attained by means other than through the organisational power of the social partners. Governability is also attainable through labour legislation, tradition and the customs of the social partners insofar as these practices contribute to macroeconomic stability and reduce the transaction cost of negotiations (see also Veneziani, 1999).

The study of collective bargaining and its governability in Spain provides examples of our point of view. The governability of Spanish trade union and employers' organisation is based on a series of institutional traits that guarantees the representative nature and power of the partners. Collective bargaining carried out basically at an intermediate level is conditioned by these traits and by labour market regulations that affect its development and content.

### **The conceptual definition of governability<sup>1</sup>**

Governability is defined as the capacity of the actors of industrial relations systems (the State – trade unions – employers) to influence and control the key elements of macroeconomic policy, and in particular to coordinate pay policy, control inflation, generate employment and redistribute income. Our aim is to examine the governability of the Spanish collective bargaining system, which some authors (Bentolila and Gimeno 2002) claim to be ungovernable or even unarticulated and without any hierarchical order between levels (Traxler 2003). Our hypothesis takes a different and

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original line: the collective bargaining system is governable thanks to the institutional characteristics of the industrial relations system.

According to the Austrian researchers (Traxler, Blaschke and Kittel 2001: 105-111), the operationalisation of the concept of governability leads us to analyse three dimensions: power, domain and control:

**Power:** This dimension is contingent on the degree of collective bargaining coverage, which expresses the extent of the benefits of collective action compared with two other alternatives for regulating employment: individual and market regulation, and the regulatory action of the State through legislation. In democratic regimes free collective bargaining is the fundamental mechanism of employment regulation, though in some countries its coverage is extended through *erga omnes* clauses.

The dimension of power also aims to measure the degree of representation of the social partners, which regards generally the number of members. However, in Latin countries, due to trade union organisational pluralism and competition, in order to analyse the power and legitimacy of the social partners one must consider the degree of *representativeness* regarding the number of trade union delegates elected in systems based on the electoral audience<sup>2</sup>.

**Domain:** This dimension expresses the presence of the social partners in the spheres of bargaining and on bargaining commissions, and their degree of organisation and articulation of the trade unions and employers' associations. An example of this is the degree of coordination or autonomy of the different levels of bargaining: company, sector, region and confederation.

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<sup>2</sup> In accordance with the ILO criteria, we can distinguish two different concepts. The concept of representation has a quantitative significance and is generally taken as a reference through the number of members of trade unions. This form of representation is proper to the German, Nordic, and Anglo-Saxon spheres. Then there is the concept of representative status, which has a qualitative significance. By means of legal mechanisms the public authorities confer an extra strength on trade unions and business organisations in order to compensate for their weakness or difficulties linked to the process of association. This form of representative status is proper to the countries in southern Europe.

**Control capacity:** This dimension expresses the form of centralised coordination—the way in which the different and fragmented interests of the workers can be synchronised and harmonised in line with the more general interests, which could in turn be linked to the participation and commitment of the social partners in the orientation of economic policy. The concept of control capacity also refers to the decentralisation/articulation of collective bargaining, its “depth” and the “capacity of control and administration of the collective agreement at workplace level, as studied by Clegg (1985) in a comparative research project.

### **The theoretical debate on the structure of collective bargaining**

Comparative studies regarding European convergence have concentrated on the institutional structure of collective bargaining, and attention is currently focusing on the centralised and decentralised bargaining models. The centralised model is found particularly in Nordic and Germanic countries. It involves advantages such as the possibility of aligning pay and other variables of collective bargaining with the objectives of macroeconomic policy. It also allows for better governability, administration, control and management of the subjects agreed between the social partners (Grote; Schmitter, 1999). The centralisation of the trade unions and employers' organisations (neo-corporatist structures) in turn facilitates the centralisation of collective bargaining and therefore provides a disciplined framework for the substantive rules negotiated (as in the case of the Scandinavian countries and Austria in particular). On the other hand, the decentralised collective bargaining model, which is found in Anglo-Saxon countries is more ungovernable and conflictive, but offers advantages such as a greater capacity to adapt the content of collective agreements to the specific situations of companies or workplaces, faster adjustment to variations in demand, and a microeconomic orientation (Traxler; Mermet, 2003). According to the inverted U of Calmfors and Drifill (1988), the two extremes of centralisation and decentralisation offer better results against inflation and unemployment than an intermediate degree of centralisation.

Some analysts consider the Spanish collective bargaining model to be the worst of all, because it is neither decentralised like the British one nor centralised like the

Scandinavian one. According to Bentolila and Jimeno (2002), the Spanish mixed structure is the worst in terms of adjustment and adaptation of bargaining to variations in the economic cycle.

### **Economic models and governability of policy wages.**

In accordance with the proposals of Hall and Soskice (2001; see also Aarvaag, 1999), economies are differentiated into two major groups regarding the institutional framework, i.e. the regulations, rules, and forms of conduct that affect the behaviour and types of co-ordination between enterprises and social partners: liberal market economies and co-ordinated market economies. These two economy models are differentiated by a network of social relations and interactions that shareholders in firms establish, as well as by the presence of social partners, trade unions, and employers' associations in labour markets. The institutional design of the relations between shareholders and enterprises and of the relations between trade unions and employers' associations conditions the economic results. Such interactions and relations can be studied through the mechanisms of co-ordination that they establish for policy wages and even for working conditions and solutions of conflicts (see Bordogna; Cella, 1999).

Two levels of co-ordination can be established: the co-ordination of the corporate government of firms and the co-ordination of industrial relations. The two levels condition each other, and for this reason there is interaction between changes at the company level and changes at the social partner level.

a) The first level of co-ordination comes about in the corporate government of firms: here it is necessary to study the power of shareholders through the existence of legal regulations that protect and moderate their interests in firms, the degree of dispersion or concentration of the company's shareholders, and the size of the capital market.

b) The second level of co-ordination lies in industrial relations: here it is necessary to take note of the level of co-ordination in wage-fixing, or in other words the mechanisms of collective bargaining, their degree of centralisation and the co-

ordination of strategies between the various social agents, as well as of the degree of rotation of workers in firms.

From this methodological approach, Djankov's theory of the legal system (Djankov et al. 2003) proposes that institutions are the result of the legal tradition and of the national style existing in a country and that various strategies and institutional technologies are used to confront market failures and the social control of businesses. Thus, the countries that have general laws tend to be based more on markets and on contracts, and the countries that have more specific laws (*juridified* systems) tend to be based more on regulation and the existence of public enterprises.

#### The governability of trade union and employers' organisations

A second set of theoretical contributions to consider are those whose theoretical substratum analyses the behaviour of social partners. In this regard, the proposals made by Checchi and Lucifora (2002) for trade unions can be applied to the case of Spain. According to some analysts associated with the Bank of Spain and with employers' sectors, the Spanish trade unions carry out their activity in a regulated labour market environment in which legislation provides greater guarantees of employment than in other countries by requiring notice of dismissal, regulating short-term contracts and working hours, and offering high subsidies and provision for unemployment. In this context the trade unions reinforce their bargaining power.

Two main approaches are used to explain the role of employers' organisations in collective bargaining. In the first, it is contended that the motives that lead to bargaining are to be found in the reduction of the transaction costs of collective bargaining processes (Doner and Schneider 2000). In the case of Spain, the costs of bargaining, as well as the weight of tradition, represent a variable that is explanatory of employer behaviour. In the second, the use of collective bargaining is seen as a mechanism of wage-cost control on the part of firms that have market power in their sector and that are protagonists or leaders in bargaining systems (Haucaup, Pauly and Wey 1999, and Heidhmes 2000), which would explain the peculiarities of the case of Spain. In accordance with the thesis of organisational minimalism (Lanzalaco 1995), the

organisational structure of the various employers' organisations is not articulated, because firms preserve the principle of autonomy in order to avoid being subjected to and conditioned by agreements made in higher spheres that may reduce the autonomy of their decisions. On the other hand, the use of organisation makes it possible to reduce the transaction costs that arise in the bargaining process and to establish a certain control or power over the wage costs of the market.

For the joint analysis of social actors and their strategies we will follow the guidelines set out by Traxler, Blaschke and Kittel (2001). These authors suggest that the organisational characteristics (territorial and sectoral representativeness, power, memberships, etc). of trade union and employers' organisations influence the effectiveness of their actions, and consequently the organisational form and the results of their collective bargaining processes. However, inversely, the characteristics of the social partners are also directly related to systems of bargaining and their traits, and are associated with their interaction.

### **Methodological aspects**

This paper should be considered as research note based in discussion with other studies and also it is the result of an initial exploration of the object of study carried out in 2005. During this year we have done 13 interviews as initial exploration in this topic. In other words, it is a qualitative study based on interviews and discussion groups with representatives of the employers' associations and with the trade union representatives of CCOO and the UGT<sup>3</sup>, and the analysis of documents of the main Spanish employers' associations and trade unions.

On the following pages we will follow the line provided by the operationalisation of the concept of governability explained above. We will first deal with the dimension of **power** by considering the institutional legal framework that legitimises the capacity for intervention of the trade unions and employers' associations through the Workers' Statute and the Organic Law of Trade Union Freedom. It is also important here to

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<sup>3</sup> CCOO (Comisiones Obreras); UGT (Unión General de Trabajadores), CEOE (Confederación Española de Organizaciones Empresariales).

observe the overall degree of coverage of the workers, which through the *erga omnes* clauses guarantees the extent of collective agreements. Secondly, we will deal with the dimension of **domain**, by considering the institutional framework that regulates the domain in which the social partners can operate and their effective presence on the collective bargaining commissions; this domain is based on the legitimacy provided by the degree of representativeness resulting from the trade union elections, which in turn affects the composition of the members of the collective bargaining commissions. Thirdly, we will deal with the effective **control capacity** of the social partners, by exploring the efficiency of the collective agreements and the alignment of pay with the objectives of controlling inflation and with the objectives of the social partners.

**Table 1.1. Dimensions of the concept of governability.**

Dimensions	Categories	Indicators for the Spanish case
<b>1. Power</b>	The institutional design of trade unions as actors in collective bargaining. The institutional design of employers' organisation as actors in collective bargaining.	Workers Statute, (WS, 1980) Trade Union Freedom Law (LOLS, 1985) Low rate of membership (17%); Electoral audience and high degree of legitimacy (74% participation of the workers in the trade union elections); high degree of representativeness recognised of CCOO + UGT jointly and of the CEOE. Reduction of transaction cost. Control of labour markets.
	Collective bargaining coverage.	<i>Erga Omnes</i> with the force of law: high collective bargaining coverage (80-85%).
<b>2. Domain</b>	Institutional framework of collective bargaining.	Mixed structure of collective agreements, adapted to characteristics of the sectors, organisational characteristics of the social partners and tradition.  Little presence of occupational or autonomous trade unions CCOO and the UGT have 76% of the representatives on the bargaining commissions.
	Domain of social partners in collective bargaining.	Social partners representing employers: many independent employers' organisations, (which keeps them close to the interests of their members), though most are associated with the CEOE.
<b>3. Control capacity</b>	Power of employers' organisations and trade unions to prevent free-riding behaviour in bargaining.	Legal recognition of the representativeness Statutory collective agreements have the same status as the law: they have the force of law with universal application. Mixed structure of collective bargaining: 53% of workers covered by provincial agreements; 28% by national agreements; 11% by company agreements and 7% by local agreements.

## **1. THE FIRST DIMENSION: THE POWER AND THE INSTITUTIONAL DESIGN OF UNIONS AND EMPLOYERS ASSOCIATIONS**

### **The institutional design of trade unions**

The present design of the legal framework of trade unions in Spain goes back, in its fundamentals, to the years of transition to democracy. The Spanish Constitution of 1978 recognised trade unions as the representatives of the general economic and social interests of workers, thus making them a basic element of the democratic political system<sup>4</sup>. This proposal is developed in the Estatuto de los Trabajadores (Workers' Statute) of 1980, and in the Ley Orgánica de Libertad Sindical (LOLS, Trade Union Freedom Law) of 1985, in the following terms:

a) Institutional recognition of the representative nature of trade unions on the basis of results in the election of committee members or trade-union representatives. Trade unions are recognised as having the capacity to exercise, within the sphere in which they obtain representative status and as a consequence of that status, the role of representatives of workers, whether or not these be affiliated.

b) Creation of the figure of the 'most representative' trade union, which is recognised as having the function of representing workers (whether they are not members) in relation to public administrative bodies. One that obtains more than 10% of the committee members or trade-union representatives at the national level, or 15% in an autonomous community in the case of regional trade unions achieves the status of the 'most representative' trade union.

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<sup>4</sup> Baylos (1991) and Valdés Dal-Ré (1996) contend that the Spanish Constitution bestows broad faculties on trade unions with the objective of avoiding a power vacuum in a context of lack of tradition and of strong institutions in industrial relations.

c) The institutionally recognised functions and representative nature of trade unions are reinforced by means of the legal regulation of collective agreements, in particular with their status of equivalence to the law and with the *erga omnes* extension clause. The result of these clauses on the general effectiveness of collective agreements is a high rate of coverage (85-90%), which indicates the great power of collective agreements (Martín Artiles and Alós-Moner 2003).

d) The law establishes a difference in functions between workers' committees and trade unions. The former are assigned the faculties of representation and negotiation within the firm, which means that the committee has full authorisation to represent all the staff and to bargain for collective agreements or for any other kind of accord within the firm. However, the Spanish LOLS law also recognises the trade union as having the capacity to act within the firm, and does not establish a clear delimitation of the functions of each body, that is to say, of the workers' committee and the trade union. On the other hand, trade unions are exclusively authorised to represent workers and negotiate outside the firm (supra-enterprise bargaining and social accords).

### **The institutional design of employers' organisations**

The organisation of employer interests in Spain could be described as complex. The Spanish Confederation of Employers' Organisation (CEOE) is the main organisation; it enjoys maximum representative status and is recognised in this regard by the legal and institutional system. The CEOE is made up of multiple interrelated territorial and sectoral organisations with overlapping memberships,<sup>5</sup> and there is consequently no direct formal membership to it. Therefore, firms belong directly or indirectly to a number of associations, which makes it difficult to establish a direct relationship between firms and the organisation or to determine the degree of membership.

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<sup>5</sup> The data of the CEOE offered in 2002 provide figures from 200 territorial and sectoral associations at the level of autonomous communities and 2002 base associations.

The organisational-institutional design has its origin mainly in a series of factors that affect the governability of the various organisations and the results of collective bargaining.

a) The size of enterprises itself, which registers a high presence of small and medium enterprises, varying in accordance with the productive sectors and with the market structure that such firms show. In Spain, the average size of the firm, i.e. the average number of workers, is very low (five employees). Although 99% of the enterprises are small and medium-sized firms, this figure is not shared out evenly either in the country or in the various productive sectors. The average number of workers doubles in the industrial sector in comparison with the service sector; in certain branches of production, large firms are predominant (for instance, in energy and banking) and in certain regions there is a high concentration of productive activity, such as in textiles and chemicals in the Mediterranean area.

The size of firms and their market power condition the organisational structure of employers' associations. In the sectors in which there are large and medium-sized firms, the force of association lies in their national sectoral associations. On the other hand, in the sectors that are highly atomised at the employer level, the force of association lies in the territorial organisations. Such organisations make the market power of firms more robust in a particular product or area.

b) The historical factors conditioning the creation of a complex network of employers' organisations and a supreme organisation that inherited part of the structure and leadership of the former vertical trade union (Martínez Lucio 1992). The learning process, as much from the organisational as from the bargaining point of view, has been very much influenced by the heritage of the vertical trade union, which integrated all social partners into a single organisation. This lies at the origin of many of the present structures and employer-representation processes at work when collective agreements are being

negotiated, and this is especially the case at the provincial sector level, where it affects the negotiating style and behaviour.

## **2. THE SECOND DIMENSION: THE DOMAIN OF SOCIAL PARTNERS IN COLLECTIVE BARGAINING**

The domain of the social partners in collective bargaining, that is, the capacity to represent the heterogeneous interests of workers, is ensured by the institutional and legislative framework, and by the organisational characteristics of the employers' organisations and trade unions. Furthermore, the domain is ensured by the representativeness of the trade union elections, which in turn influences the composition of the bargaining commissions. We will consider these two questions here.

### **The institutional framework of collective bargaining**

The governability of collective bargaining in Spain is a process that is carried out through consent and cooperation among the actors. The general guidelines agreed to by the leadership at the central level are subsequently implemented with a considerable degree of autonomy at the levels of the sector, province, and firm. This subsequent development depends not only on consent, but also on the traditions and customs of each level of negotiation. Likewise, the law, through the *erga omnes* clauses, the qualitative concept of representative status, and the ultra-activity<sup>6</sup> of collective agreements, all contribute to this governability.

State intervention and labour legislation make up for the weakness and fragmentation of the representation of interests and play an important role in the Spanish system of labour relations. Below we will consider the most characteristic traits of the Spanish institutional system in which the governability of trade unions and the governability of employers associations play a key role.

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<sup>6</sup> This concept refers to the non-expiry of an agreement until another is signed that makes it invalid.

## 2.1. Governability of trade-unions

The main trade unions in Spain, Comisiones Obreras (CCOO) and Union General de Trabajadores (UGT), are characterised by a double commitment: one of these stems from their political and ideological ties, and the other stems from the 'political delegation' or trust that workers place in them (Miguélez 2000). From this double commitment there arises a permanent conflict between the political and ideological component, which provides identity and scarce but solid membership resources, and pragmatism, which supplies recognition and membership resources, albeit weak ones.

The following points should be taken into account:

a) Trade union competition and co-operation. The plurality of trade unions (which has its root in their political and ideological links) gives rise to constant tension between competition and co-operation between them. Competition and co-operation appear at all levels in trade-union structures, and in a variety of forms. The need for recognition (on the part of workers, but also on the part of the firms) lies at the bottom of both competition and co-operation between trade unions; likewise, the political and ideological commitment generates relationships of co-operation at the same time as ones of competition.

b) Membership and audience. Trade-union membership is recognised to be low or very low, and is in fact one of the lowest in the European sphere. Various factors contribute to the prevalence of the figure of the free rider. These include the productive structure with its very high presence of small firms, the system of *erga omnes* clauses for collective agreements, and the prevalence among workers of a culture of little active participation. Consequently, in accordance with the suggestions made by Checchi and Lucifora (2002), the existing institutional regulations lead trade unions to compete basically for representative status rather than for membership. However, the trade-union audience (measured through the vote, or through the acceptance of trade unions and their proposals) tends to be, on

the contrary, fairly or very high. The institutionally recognised faculties of the trade unions and their pragmatism make a decisive contribution to this situation.

c) The principle of audience and institutional representative status that trade unions are acknowledged to have implies that for them the active participation of their members is not indispensable. This does not mean that membership is not important, as it provides human and financial resources, but it does not acquire the dimensions that Offe and Wiesenthal (1992) attribute to it.

Trade unions are organisations possessing highly complex structures. They have a confederal leadership (a confederal secretariat or executive); the various federations, with their respective structures and governing bodies; the trade-union delegates or the organisations of the trade union in firms; and finally the members of the trade union elected as the unitary representatives of the workers in firms.

Each element within a single organisation has a high degree of autonomy in its respective sphere. Nevertheless, each one depends upon the others in order to be recognised. For instance, the confederal leadership requires the explicit or implicit support of the federations, regional organisations, and representatives in firms; likewise, the latter owe their very existence to the support given by the organisation as a whole. This complex relationship entails the ability of the parts making up a trade union to maintain quite autonomous stances within their sphere of activity, even while under the unavoidable obligation of belonging to the organisation, which limits leakages from, or ruptures within, it: in other words, in spite of their autonomy, the parts of the organisation must avoid taking positions involving plain and open confrontation.<sup>7</sup> All of this implies the necessity for a strong consensus, albeit one having wide margins of ‘dissimulated’ discretion that will avoid open confrontation.

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<sup>7</sup> On the basis of case studies, Escobar (1993) and Pimentel (1993) conclude that workers’ committees and the trade unions in firms tend to act with a high degree of independence in respect of the strategies of the trade union organisations. Nevertheless each one seeks to avoid open conflict with the other, which moderates differences.

Tolerance and the acceptance of cooperation become an important value in the face of the diversity of interests represented by trade unions.<sup>8</sup> This helps to avoid the dilemma stated by Offe and Wiesenthal (1992) in regard to the difficulties trade unions have in governing a plurality of interests. This tolerance and acceptance of consensus is reinforced by pragmatism.<sup>9</sup> Thus, the internal governability of organisations is improved, even when they lack the centralised control mechanisms and the systems of sanctions typical of bureaucratic organisations.

## **2.2. The governability of employers' organisations**

Throughout Spain the representative status of the CEOE is guaranteed by the law. Regional and sectoral associations are therefore affiliated to the CEOE so that it will represent them, thus helping to legitimise the organisation's function as a social interlocutor and a guarantor of social harmony. From the time of its creation the CEOE's priorities have been the political consolidation of Spain and the strengthening of the market economy (Costas and Nonell 1996). On the basis of these strategic objectives it participated in and promoted the signing of centralised bargaining agreements that were applied by the other elements in the fabric of associations, and by firms. Consequently, the governability of the CEOE is directly related to the reduction of transaction costs in terms of a lessening of social conflict in firms and a reduction in working hours lost.

The reasons that induce a firm to join the CEOE and cede its representativeness to the association are:

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<sup>8</sup> According to the interviews held with the trade unions UGT and CCOO, it is important to acknowledge the efforts toward internal co-ordination carried out by trade unions through the creation of opinion, internal meetings, internal sessions, and training. Direct intervention, involving sanctions, is limited only to extreme cases of open conflict, namely, of breach of the basic rules of behaviour within the organisation.

<sup>9</sup> There are numerous examples in this regard. Among others, in the building construction sector the elimination of seniority payments has been accepted; in some firms the trade-union negotiators have agreed to a double wage scale; in other firms there is an avoidance of outright refusals with regard to the treatment of overtime and shorter working hours.

- a) The reduction of transaction costs and of the costs involved in the negotiation of working conditions. Spanish employers show a certain resistance, especially because of the small size of businesses, to undertake collective bargaining at the level of the firm. Therefore they tend to delegate the responsibility for bargaining to a representative of the firm, as most collective bargaining takes place at an intermediate, i.e. provincial, negotiating level. In turn, provincial collective agreements constitute a source of income for the solicitors and law firms that represent the employers' organisations. This provincial structure is a legacy from the past and lists strongly in the direction of tradition and local customs.
  
- b) Regional and sectoral organisations offer, in the main, consulting and training services to their firms. In the case of Spain, the services that they offer differ widely from association to association. An additional service is the management of the funds devoted to occupational training, which has been beset by problems and a lack of transparency.

The governability of the CEOE in Spain can therefore be considered on two levels: the national level and the regional and sectoral level.

At the national level firms and their regional associations yield responsibility to the CEOE through centralised collective bargaining or national agreements when economic results are not favourable and price tensions are reflected in the worsening of business results. The difficulty that public policy encounters in controlling the evolution of prices with traditional instruments and the loss of credibility of the forecasts for the evolution of the RPI introduce a high cost in intermediate collective bargaining, and this makes it preferable for the CEOE to negotiate centralised agreements in order to guarantee a stable bargaining scenario.

The second level of bargaining is at the regional and sectoral level. At the regional level, the relationship between the CEOE and the intermediate representative organisations is not without conflict. For instance, at the time of the 1994 labour

reforms, national sectoral collective agreements began to undergo significant changes as a result of the application of the reforms and the appearance of collective bargaining with a certain innovatory capacity. The CEOE, which was not involved in the process, recommended in 1995 that wage restraint should be negotiated in exchange for the non-introduction of substantial changes in collective agreements. In 1996 it stated openly that it was against the experience undertaken in certain businesses of introducing flexibility mechanisms through double wage scales or pacts concerning compensation (Aguar, Molins and Casademunt 1999); it also blocked the signing of agreements at the level of the autonomous communities.<sup>10</sup> In 1997 it recovered its involvement by signing a new centralised agreement for the reform of the conditions governing work contracts and for collective bargaining.

Finally, there is a shortfall of governability at the lowest regional levels, the associational fabric is weak in certain sectors, and there are conflicts between levels of representation. There are sectors in which organised employer interests do not exist, and there are also sectors appearing—above all in the sector of services related to new activities—in which employer associational activity is undergoing transformations.

a) In regard to the first case, the lack of employer representation became evident in the 1997 centralised agreement, in which the so-called *Acuerdo de Vacíos* (Agreement on Voids) was made, this name referring to the fact that after the disappearance of the Labour Ordinances, there was no type of industrial relations agreement in certain sectors. The cause of this institutional void is to be found in the lack of employer representatives for the negotiation of the new agreements.

b) In the second case, it can be seen that in emerging sectors the large firms that make their entry with market power are interested in taking on the representation of employers at the national level, thus taking responsibility away from the regional levels in order to control labour costs. This is the case of the agreement governing temporary employment agencies

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<sup>10</sup> In Catalonia, the social partners had a collective bargaining agreement at the autonomous community level ready to sign; it introduced in its turn mechanisms for resolving disputes out of court. At the last moment, the Catalan employers withdrew (Aguar, Molins and Casademunt, 1999).

(TEAs), in which despite the existence of collective bargaining agreements at the autonomous community level, the large firms established throughout the market have made themselves into a national employers' association and have taken negotiations to a national level.

In short, the dynamics of the various interest-group representative organisations can be explained by the role that each of them plays in the representation of employer interests in collective bargaining. Sectoral bargaining thus coexists at the provincial level (metal) and the national level (textiles and building construction). This complex system of collective bargaining is taken for granted in the strategies of employers' associations, and it is understood that there should be no decisive initiatives to alter it, but simply solutions for the difficulties of co-ordination and articulation that may appear.

### 2.3. The composition of bargaining commissions

In respect of the representative status of the social partners in Spain, 74.7% of the signatories to collective agreements before 2002 belonged to CCOO or the UGT (Comisiones Obreras and Unión General de Trabajadores, the two main trade union organisations in Spain). This figure rose to 77.3% in 2003 (Table 2.1). In the same period, other trade unions increased their presence slightly, while the presence of workers not belonging to any trade union declined sharply.

**Table 2.1: Share of representatives signing collective agreement.**  
Share of Collective agreements in relation to signatories.

	<b>1998</b>	<b>2003</b>	<b>Variation</b>
CCOO	38.1	39,2	+1.1
UGT	36.6	38,1	+1.4
Other trade unions	15.3	15.1	-0.2
Groups of workers	10.5	7.4	-3.1
<b>TOTAL</b>	<b>100</b>	<b>100</b>	

*Source: Consejo Económico y Social (1999 and 2004)*

The legitimacy of trade unions is also evinced in the results of trade-union elections. The latest figures available for 1990 offer the following scenario:

**Table 2.2: Participation in elections of trade-union representatives in firms. Spain, 1990**

Total wage-earners (*) [1]	9,372,500
Wage-earners in firms with elections [2]	5,373,613
Voters [3]	3,974,406
[2] out of [1] (*)	53.7%
[3] out of [2]	74.0%

(\*) The figure for wage-earners refers to the total number of wage-earners according to the *Encuesta de Población Activa* (Survey of the Active Population); nevertheless, it must be borne in mind that only workers in firms with six or more employees can participate in the electoral processes.

Source: Spanish Ministry of Employment and Social Security (1992), cited by CES (2004). The figures are not more up-to-date because since the responsibilities in this regard were transferred to the Autonomous Communities, no more aggregate figures have been published at the national level.

Finally, the participation of workers in the electoral processes for trade-union representatives is quite high (74%, Table 2.2), which demonstrates a degree of commitment to, or trust in, such processes and the candidates. Furthermore 77.3% of the representatives elected by the workers are from candidatures presented by CCOO and UGT, and this percentage has been rising since the advent of democracy to Spain (Miguélez 1999). However, as collective agreements are governed by the Workers' Statute, which states that to have general validity they must be signed by more than 50% of the representatives of each party, UGT and CCOO are rarely able to control bargaining without each other, though in some cases they can seek the support of a third trade union with sufficient strength (this is only possible in very specific sectors or in the autonomous communities of Euskadi, Navarra and Galicia). It is therefore not surprising that for approximately ten years CCOO and the UGT have reached agreements on the criteria for approaching collective bargaining.

### **3. THE THIRD DIMENSION: CONTROL CAPACITY AND THE RESULTS OF BARGAINING**

The capacity for controlling collective bargaining leads us to the debate between centralisation and decentralisation, and to the structure and efficiency of the collective bargaining system. We will explore these two questions and we will then observe the results of collective bargaining as empirical evidence of its degree of governability.

## **Governability and the sphere of collective bargaining**

From the interviews carried out for this paper, several employer and trade-union strategies can be seen. Large firms are interested in the centralisation of collective bargaining as a procedure for the harmonisation of costs and the reduction of transaction costs (e.g. the agreement in the building-construction sector and the TEA agreement). On the other hand, small firms seem to have a preference for regional (provincial) collective agreements, in order to maintain a negotiating structure closer to the local sphere. In short, the interests, practices, and bargaining positions of firms reveal complexities and contradictions that cannot be reduced to a simple choice between decentralising or centralising collective bargaining.

Trade unions are interested in the centralisation and co-ordination of collective bargaining for obvious reasons of worker solidarity, but also because sectoral collective agreements are more dynamic and productive of renewal than agreements made at a lower level. The agreements of firms are perhaps less dynamic. Nevertheless, trade unions cannot neglect the local sphere, as they must remain close to those they represent and must maintain identity and legitimacy, as these things definitely contribute to their governability.

In the light of the results of our work it is necessary to reflect on proposals for the reform of collective bargaining. The application to Spain of the theories on the benefits of the inverted U has focused reform proposals on the need to modify the structure of collective bargaining by fostering decentralisation, and to improve its articulation by promoting national agreements aimed at favouring decentralised negotiations. This, in turn, would allow a reduction of the inflationary tendency of provincial sector agreements, as the Banco de España argues, and as the Partido Popular also maintained when it was in government.

In a recent work, Izquierdo, Moral and Urtasum (2003) contend that 53.75% of workers are affected by a provincial agreement. The authors defend the necessity of reforming the levels of intermediate negotiation as these show their inefficiency in the results.

Even so, it is not sustainable to attribute exclusively to this level of provincial negotiation the conditions of economic inefficiency alluded to in the theories based on the thesis of the “hump” or inverted U. Experience shows that although wage bargaining may be concentrated at the provincial level, the scope that firms have for fixing wages is greater than when wage agreements are made under the influence of an expansive economic cycle. The structure of collective bargaining in Spain is a reality that remains fairly constant in time (Table 3.1).

**Table 3.1 Structure and levels of collective bargaining**

Level	Number of Agreements		Workers	
	1994	2003	1994	2003
Firm	2,309	3,263	688,491	908,363
Sectoral-provincial	772	896	3,006,613	4,532,352
Sectoral-local	17	12	6,741	11,011
Sectoral-inter-provincial	25	56	481,208	823,138
Sectoral-autonomous community	-	22	-	823,188
Sectoral-inter-autonomous community	-	-	-	-
Sectoral-national	43	65	991,117	1,806,845
<b>Total</b>	<b>3,192</b>	<b>4,364</b>	<b>5,184,294</b>	<b>8,147,177</b>

Source: The available figures correspond to the 1994 and 2003 and were published in CES (1995): *Memoria sobre la situación socioeconómica y laboral*. Madrid, pp. 224; likewise, CES (2004): *Memoria sobre la situación socioeconómica y laboral*. Madrid, pp. 369.

At the provincial levels of bargaining the agreed wage rises are higher than those at the national level, although there is less wage dispersion. One instance of distortion lies in the differences in wages between the various provincial agreements in the same productive activity. For example, it can be seen that the metal-workers agreement negotiated at the provincial level in Catalonia is led by the province of Barcelona, and that the other three Catalan provinces follow similar lines, but on the subject of wage-fixing and nominal wages there are considerable differences. These differences can be explained by the sphere of regional competition of the firms in the sector. In this case, the vehicle distributors or workshops included in this branch of production exercise their market power by forcing a differentiation of wages at the provincial level, though it must be borne in mind that the large automobile firms have agreements of their own.

By way of contrast, in the sectors of production in which national sectoral agreements are reached (textiles, chemicals, graphic arts, department stores), an employer strategy can be detected. An instance of this is in the agreement in the textile sector, which has a nation-wide market but is highly concentrated in Catalonia. Catalan firms are interested in negotiating at this national level in order to set minimums on the overall wage costs of all competing firms.

### **The results of collective bargaining**

The governability of collective bargaining in Spain can also be confirmed on the basis of the results that it obtains. In this sense, it can be seen that collective agreements are gradually adapting to the demands and orientations that both employer and trade-union organisations are concerned to further.

Annual wage increases are governable through the guidelines accepted by employer and trade-union leadership when there are centralised agreements, and by intermediate organisations in other collective bargaining sessions. These annual wage-increase guidelines are agreed by the social partners (especially employers) because habitually they are guidelines as to minima and reduce transaction costs. The result is wage restraint, as shown in the following table (Table 3.2), which demonstrates the governability of collective bargaining.

**Table 3.2 Inflation and wage increases as part of agreements, 1985-2000**

<b>Years</b>	<b>Wage increase (with an escape clause) (1)</b>	<b>Forecast inflation (guides collective bargaining)</b>	<b>Annual inflation (2)</b>	<b>Increase in purchasing power (1-2)</b>
1985	7.9	7.0	8.8	- 0.9
1986	8.2	8.0	8.8	- 0.6
1987	6.5	5.0	5.2	1.3
1988	6.4	3.0	4.8	1.5
1989	7.8	3.0	6.8	1.0
1990	8.3	5.7	6.7	1.6
1991	8.0	5.0	5.9	2.1
1992	7.3	5.0	5.9	1.4
1993	5.5	4.5	4.6	0.9
1994	3.6	3.5	4.7	- 1.1
1995	3.9	3.5	4.7	- 0.8
1996	3.8	3.5	3.6	- 0.2
1997	2.9	2.2	2.0	0.9

1998	2.6	2.1	1.8	0.8
1999	2.7	1.8	2.3	0.4
2000	3.7	2.0	3.4	0.3
2001	3.6	2.8	3.6	0.0
2002	3,8	2,0	3,5	0,3
2003	3,7	2,0	3,0	0,7
2004	3,6	2,7	3,2	0,4

Source: Spanish Ministry of Employment and Social Security, Statistics for collective agreements. Spanish Instituto Nacional de Estadística. Cited in the *Memoria sobre la situación socioeconómica y laboral*. Consejo Económico y Social, Madrid 2002; pp. 406. and 2004, pp. 328

This table shows the existence of a high degree of control in the behaviour of pay in relation to the forecast inflation rate, as has been stated by recognised researchers such as Fina et al. (2001: 164): “*The reasons for the downward trend of [pay] drifts correspond to the influence of collective bargaining and the increasingly close connection between agreed pay and earned pay.*” Another researcher (Royo 2002) claims that Spanish collective bargaining is a model in which pay rises adapt to the levels set by the social partners. It is thus obvious that, as Pérez Infante (2003) concludes, collective bargaining does not generate inflation.

## CONCLUSIONS

The institutions that favour governability are directly related to 1) the generalised extension clauses that allow a major coverage of collective bargaining and favour the co-ordination of decisions; 2) the legal representative status of the social partners as a substitution for organisational centralisation; and 3) the fact that bargaining power is sustained by collective bargaining regulations. **Obviously Spanish model of governability has its limitations, its tensions and even its crisis in some periods.**

Given that the governability of collective bargaining is based on the existing institutional framework, on the strategies of social agents and on their interaction with the policy of macro-economic stabilisation, our proposal is along the lines of the hypothesis advanced by Kittel and Traxler (2001), who stress that the key to explaining the interactions between collective bargaining institutions and monetary policy is not the degree of centralisation or decentralisation of that bargaining, but rather its governability. In this regard, we accept their criticism of the inverted U theory of

Calmfors and Driffill (1988) on centralised and decentralised models of bargaining, and their results on economic activity and inflation and unemployment-control policies.

Notwithstanding this, our notion of governability depends not only on the organisational structures of the social partners, but also on other legal and cultural elements such as customs, values, traditions and consensus, i.e. the institutional framework of the labour market. These elements also provide the system of industrial relations with rationality. With this new variable, the Spanish model could be classified as peak-level governability through institutional regulation.

There is more governability in Spain than may be suggested by the theoretical models, and this can be observed in the governability of wage policies, as has been stressed. We may conclude, from a comparative perspective, that the model governs itself in spite of low density and organisational weakness. We are therefore critical of the theoretical approaches of some comparative studies and of their exclusively quantitative analytical dimensions.

Finally, this paper seeks to contribute certain reflections to the comparative debate on the study of industrial relations through the concept of governability, which also depends on the institutional framework, as it involves legal matters and others to do with the culture of the country that establish a national style. In conclusion, the examination of the dimensions of power, domain and control capacity has allowed us to explain the peculiar capacity for governability of the Spanish collective bargaining system, despite the organisational weakness of the trade unions and employers' associations. This conclusion may have important implications for economic policy.

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