

## Chapter 13

# Greece: 'contesting' collective bargaining

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Drawing on the institutional change literature (Streeck and Thelen 2005; Kingston and Caballero 2009; Mahoney and Thelen 2010), this chapter develops a contestation-based account of Greece's legal and industrial relations trajectory during the period 2000–2016. There is, of course, a voluminous body of scholarship on the labour law reforms recently imposed by the International Monetary Fund (IMF) and the European Union (EU), capturing various facets of the radical and substantive transformation of Greek collective bargaining from a worker-protecting system to a more decentralised and deregulated 'market-friendly' variant during the recent economic crisis (Koukiadaki and Kretsos 2012; Papadimitriou 2013; Yannakourou and Tsimpoukis 2014; Jacobs 2014; Katsaroumpas 2017). This chapter seeks to address a notable gap in this extensive scholarship, namely a systematic power-based institutionalist account as a framework for examining the 'hows' and 'whys' of the Greek trajectory.

To be sure, Kornelakis and Voskeritsian (Kornelakis and Voskeritsian 2014; Voskeritsian and Kornelakis 2011) have already applied the 'varieties of capitalism' institutional framework in the context of Greek industrial relations. The so-called 'varieties of capitalism' approach is a prominent enterprise-based institutionalist perspective used to investigate patterns of stability and change from an efficiency viewpoint in terms of institutional complementarities in 'liberal' and 'coordinated' market economies (Hall and Soskice 2011). The account presented here differs in three major respects. The first is 'ontology'. Rooted in the literature on power-based institutional/institutional change (Knight 1992; Moe 2005; Mahoney and Thelen 2010; Campbell 2010; Jenson and Mérand 2010: 82–83) and industrial relations (Hyman 1975; Kelly 1998), it construes industrial relations and institutions as manifesting and mediating the fundamental conflict between capital and labour. It treats unequal power relations rather than efficiency as the key factor in institutional change or continuity. We adopt a dynamic approach to power relations, however. This is why we have taken 'contestation', the activity-form of power conflict, as the organising analytical principle. Second, this study's time frame is broader, as it covers the entire 2000–2016 period.<sup>1</sup> Third, and in particular, our account examines both 'law' and 'industrial relations' as relevant institutions, along with their mode of interaction.

In order to position our analysis within the literature, it is useful to introduce a general periodisation. In elementary institutional-change terms, Greece's overall trajectory in 2010–2016 seems to fit a pattern of 'punctuated equilibrium' (Eldredge and Gould

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1. The chapter thus does not cover changes that have taken place in Greece since 2016, including Greece's exit from the 'financial assistance' programmes in 2018.

Table 13.1 Principal characteristics of collective bargaining in Greece

Key features	2000	2016
Actors entitled to collective bargaining	Trade unions and employers' associations	Trade unions and employers' associations; and non-union associations of persons
Importance of bargaining levels	Industrial level is the dominant level; cross-industry level for bargaining on minimum wage; Company level is present but rare	Collapse of the industrial level; cross-industry level lost significance; increase of company bargaining
Favourability principle/derogation possibilities	Strict hierarchy between bargaining levels based on favourability principle/no derogation possible	Suspension of favourability principle
Collective bargaining coverage (%)	82 (2002)	10 (2015)*
Extension mechanism (or functional equivalent)	Yes	'Temporary' suspension
Trade union density (%)	25 (2001) and (2013)	
Employers' association rate (%)	44 (2008)	n.a.

Note: \* Koukiadaki and Grimshaw (2016).

Source: Appendix A1.

1972; Gersick 1991; Baumgartner *et al.* 2009; Princen 2013) rather than a 'gradualist' model (Streeck and Thelen 2005; Mahoney and Thelen 2010). This is because the overall transformation is, as the punctuated equilibrium thesis suggests, *unevenly* concentrated in a dense period of change (May 2010–December 2014) between two periods of relative legal stasis, during which the preceding equilibrium was sustained, namely in 2000–May 2010 and January 2015–December 2016. Nevertheless, one of the main arguments of this chapter is that this picture should be qualified, taking into account some more nuanced developments, notably gradualist or 'step-by-step' patterns during periods of both stasis and transformation. We submit that these could be better understood by associating them with patterns of contestation.

Let us now turn to the three periods. The first period abruptly ends in May 2010, when Greece entered the EU/IMF bailout regime. In this period, the principal features of the 1980s worker-protective equilibrium were maintained almost intact: the 'favourability principle' providing for the applicability of the most favourable provisions for workers in collective agreements; *erga omnes* mechanisms ensuring high levels of bargaining coverage, which were automatic for national general collective agreements and company-level agreements; an administrative extension option for industry-level/occupational agreements; and compulsory arbitration of disputes by the private law body Organization for Mediation and Arbitration (OMED, Οργανισμός Μεσολάβησης και Διαιτησίας) at the initiative of the employers or the employees.

This legal equilibrium, whose genesis marked the end of the prolonged infancy of Greek industrial relations, previously held back by mostly repressive state juridification and state paternalism in industrial relations (Kritsantonis 1998), operated under a hospitable social democratic constitution (Ewing 2012) and guaranteed express

constitutional labour rights, such as collective autonomy, collective bargaining and the right to strike (Article 22 and 23 of the Greek Constitution). But the legal stasis of 2000–2010 coexisted with a gradual (Karamessini 2008) neoliberalisation of the Greek economy and employment relations (Karamessini 2009), couched in the dominant political and academic discourse as 'modernisation' (Featherstone 2005; for a critical account see Tsakalotos 2008).

In contrast, the second period has the obvious makings of a 'path departure': that is, 'when a juncture is reached at which substantively different laws and policies begin to be followed' (Hepple and Veneziani 2009: 21). Its acute point of discontinuity is the Greek government's signing of the first loan agreement in May 2010 with the EU/IMF institutions. Subsequently, collective bargaining reforms were attached in successive rounds to repeated financial assistance disbursements, urgently needed by the Greek state to prevent a state default on public debts and a threatened expulsion from the euro zone. Regarding their substantive orientation, the conditionality-mandated legislation brought about a multifaceted and far-reaching deconstruction of preceding industrial relations in the direction of decentralisation, individualisation and deregulation (Yannakourou and Tsimpoukis 2014; Koukiadaki and Kokkinou 2016; Katsaroumpas 2017).

But even though the strict IMF/EU conditionality regime still operated at the time of writing, we submit that there exists a third period, namely January 2015–December 2016. Apart from the short-lived restorative legislation of 6 July 2015 introduced by the Syriza – ANEL government (Syriza is the Coalition of the Radical Left or *Συνασπισμός Ριζοσπαστικής Αριστεράς*; ANEL are the Independent Greeks or *Ανεξάρτητοι Έλληνες*), elected in January 2015, there have been no major legal changes since the Law 4303/2014 on arbitration. This government suffered a reversal following the July 2015 capitulation to the lenders (Euro Summit 2015) and the signing of a third loan agreement in August 2015. This period, while certainly shorter, contrasts with the preceding one in terms of its apparent stability. Analysis gives us the following periodisation: (i) the 'protective period', 2000–April 2010; (ii) the 'deconstruction period', May 2010–December 2014; and (iii) the 'post-deconstruction period', January 2015–December 2016.

This chapter is structured as follows. Following our analytical framework, subsequent sections describe patterns of contestation and modes of institutional change and associate them with legal and industrial relations developments in six areas, following Clegg (1976): extent of bargaining; security of bargaining; level of bargaining; depth of bargaining; degree of control of bargaining; and scope of agreements. The final section concludes by arguing for a qualified version of the 'punctuated equilibrium thesis'.

## **Analytical framework: 'contestation' and 'modes of institutional change'**

This section clarifies the chapter's key evaluative and explanatory tools, namely, 'contestation' and 'modes of institutional change'. Regarding the former, we adopt a multi-dimensional mapping of 'contestation', as better suited to registering its various

Table 13.2 Contestation as a multi-dimensional concept

Field	Process	Resources	Actors	Object
Political-legislative	Party competition/mobilisation (protest cycles)	Political power	Parties, civil society	Legislation
Industrial relations	Collective bargaining/strikes	Industrial and economic power	Employers and trade unions	Collective agreements
Jurisprudential	Litigation	Legal rational-argumentative power	Litigants	Judicial decisions and other jurisprudence
Intergovernmental	Negotiations	State power (economic, political)	Greek state and international institutions (EU, IMF, ILO)	MoU, reports, decisions

Sources: Authors' compilation.

fields, processes, power resources, actors and objects (see Table 13.2). Hence the following typology of four fields of contestation is introduced: (i) political-legislative, (ii) industrial relations, (iii) jurisprudential and (iv) intergovernmental. Political-legislative contestation proceeds through electoral processes and party competition (Dahl 1956), extra-parliamentary mobilisation (Kelly 1998) and protest action (Tarrow 1994). Its main objects are legislation and government policy in general. The field actors, political parties and civil society actors, including trade unions, use political power, electoral or protest, as a resource, including general strikes. Second, industrial relations contestation takes place within the framework of collective labour relations between the parties, employers and workers and their representatives. The parties exert industrial or economic power, including strikes, to favourably influence or escape collective agreements or other regulatory schemes of employment terms and conditions. Third, jurisprudential contestation proceeds through litigation, with parties as litigants using supposedly rational-argumentative power, and has as its object binding or non-binding jurisprudence. In a rule-of-law environment, this jurisprudence may produce constraining effects on law and industrial relations of various kinds depending on the ruling body and the legal system. It can also be multi-layered, as exemplified by the impact of International Labour Organization (ILO) jurisprudence on domestic constitutional review decisions. Fourth, intergovernmental contestation involves inter-state intergovernmental relations or relations between states and international organisations (ILO, EU, IMF). It proceeds primarily by negotiations, although its objects can be diverse. In the Greek case, conditionality in the form of loan agreements and accompanying Memoranda of Understanding (MoU) is the most notable product of intergovernmental contestation.

Turning to institutional change, the theoretical debate concerns the 'abrupt' or 'gradual' modes of transformative change. For the former, transformation typically occurs in 'critical junctures', thus giving the shape of 'punctuated equilibrium' (Capoccia and Kelemen 2007; Gersick 1991; Baumgartner *et al.* 2009). For the latter, transformation can occur by 'gradual change'. This account is, most prominently, defended by Streeck and Thelen (2005), who usefully distinguish between five modes of transformative

gradual change: 'conversion', that is when an institution is redirected to new goals, functions or purposes; 'layering', describing change through additions or revisions to existing institutions; 'displacement', referring to the replacement of the old institution with a new one; 'exhaustion', when processes in which behaviours invoked or allowed under existing rules operate to undermine them; and 'drift', when institutions retain their formal integrity but lose their grip on social reality. This chapter employs Streeck and Thelen's terminology with an important revision. We consider these types as not specific to 'gradual change'. As a result, they may characterise both 'abrupt' and 'gradual' change, a point to be supported by specific findings from the Greek case. As an addition to these types, it is useful to add the so-called 'institutional *bricolage*' theory. The latter illuminates a mode of change in which actors creatively use pre-existing institutional material to effect desirable changes. Hence, the use of Lévi-Strauss's metaphor of a 'bricoleur' (roughly 'handyman'), using whatever there is to hand 'to make transformations within a stock repertoire of furnishings' (Douglas 1986: 66; Cleaver 2012; De Koning 2014).

In utilising these categories, the main research topic concerns how the Greek trajectory of neoliberalisation in legal and industrial relations was structured and, in particular, how patterns of contestation can be associated with these modes of change.

## Extent of bargaining

This section examines the 'extent of bargaining' by looking at two areas: (i) national general collective agreements (Εθνικές Γενικές Συλλογικές Συμβάσεις), which are cross-industry in nature, and (ii) extension mechanisms. It presents two findings. First, it shows that the trajectory combines various modes of institutional change, namely 'displacement', 'layering' and 'exhaustion'; second, it traces patterns of contestation in both periods of legal stasis, the 'protective' and the 'post-deconstruction' periods.

During the first period, 2000–2010, Law 1876/1990 was introduced to promote collective autonomy and to limit the hitherto dominant role of the state. In a rare instance of consensus in Greek political and legislative history, this legislation, which established the regulatory framework for collective bargaining, won the unanimous approval of all political parties and representatives of the social partners, which at that time were the General Confederation of Greek Workers (GSEE, Γενική Συνομοσπονδία Εργατών Ελλάδος) and the three employers' organisations, the Hellenic Federation of Enterprises (SEV, Σύνδεσμος Επιχειρήσεων και Βιομηχανιών), the Hellenic Confederation of Commerce and Entrepreneurship (ESEE, Ελληνική Συνομοσπονδία Εμπορίου & Επιχειρηματικότητας) and the Hellenic Confederation of Professionals, Craftsmen and Merchants (GSEVEE, Γενική Συνομοσπονδία Επαγγελματιών Βιοτεχνών Εμπόρων Ελλάδας). In the public sector, Law 2738/1999 for the first time recognised the right to collective bargaining. Until then, the state had had the unilateral right to set out the terms and conditions of employment of public servants.

Under Law 1876/1990, two significant features characterised the bargaining system. The first concerned the central role of the national general collective agreement. Owing

to its *erga omnes* effect, the agreement supported horizontal coordination through its role in setting a national wage floor and other minimum standards for employees. It also shaped the character of vertical coordination between the different levels of collective bargaining by indirectly influencing the substantive content of lower level agreements (Koukiadaki and Grimshaw 2016). The second characteristic was related to the provisions for extending higher-level, industry-level and occupational-level agreements to all employees. This meant that agreements that were already binding on employers employing the majority of the sector's or profession's employees, were extended by order of the Minister of Labour and Social Security to cover all the corresponding groups of workers.

In practice, the system of collective bargaining in the 'protective period', 2000–April 2010, exhibited *continuity* in terms of its structure, coverage and operation. The number of industry-level agreements remained stable, thus providing some evidence that they were at the centre of the collective bargaining structure (Ioannou 2011). As a result of the extension mechanisms of Law 1876/1990, higher-level collective agreements would normally cover all employees in the sectors or occupations in which higher-level agreements were concluded and bargaining coverage thus stood at around 80 per cent. This high coverage was achieved in the context of a low trade union density, estimated at around 24 per cent (Appendix A1). As far as duration is concerned, both intersectoral and lower-level agreements used to last two years.

While it would be fair to characterise the 2000–2010 period as 'legal stasis', it would also be incomplete, failing to acknowledge the growing dissonance between legal stability and neoliberal economic change. Specific cases of contestation between the industrial relations actors (industrial relations contestation) at national and industry level illuminate the institutional fragility of the collective bargaining system. At national level, the negotiating agenda itself was, albeit implicitly, a topic of contestation, especially for SEV (see Scope of agreements). At industry level, another example of contestation was the approach of the employers' associations in the banking sector, the Hellenic Bank Association (EET, Ελληνική Ένωση Τραπεζών) and the Association of Cooperative Banks of Greece (ESTE, Ένωση Συνεταιριστικών Τραπεζών Ελλάδος), which, over a number of years, refused to be recognised as representatives of their members for the purpose of concluding industry-level agreements. The contestation in the industrial relations sphere crossed into the judicial sphere (jurisprudential contestation), leading to a pro-union decision by the Athens Administrative Court of First Instance (Lampousaki 2010).

It was against this context that the crisis period and austerity measures of May 2010–2014 produced abrupt modifications of the bargaining system. Law 4093/2012 displaced the joint regulatory process for fixing wage floors in the national general collective agreement and replaced it with a statutory minimum wage rate legislated by the government. Further changes in 2013 (Law 4172/2013) provided that the minimum monthly and daily wage are to be determined by a decision of the Minister of Labour, Social Security and Welfare, with the consent of the Ministerial Council. While the national general collective agreement continues to regulate non-wage issues, which are directly applicable to all workers, its regulatory function regarding wage levels

has been assumed by the state. This could be said to exemplify a case of what Streeck and Thelen call 'displacement', because the collective autonomy-based institutional arrangements for universal minimum wage-setting are effectively replaced by new state-led institutional arrangements.

These changes directly impacted the industrial relations system. In the 2013 negotiations on the national general collective agreement (the first to be concluded following the overhaul of the wage determination system), SEV, representing large employers, refused to sign. Consistent with its pre-crisis emphasis on labour market flexibility, SEV proposed instead a protocol that addressed issues related to competitiveness. It thus diverged not only from the approach of the trade unions, but even from that of the employers' associations representing Small and medium-sized enterprises (SMEs) (Koukiadaki and Grimshaw 2016). Further, because the wage-related provisions of the national general collective agreement now apply to the employers that are members of the signatory parties, the agreement has only a limited role in ensuring the application of minimum standards across sectors. This also means the absence of fall-back agreements in industries not covered by industry-level collective bargaining, which is now the dominant trend in Greece. What these developments demonstrate is how the crisis legislation, itself the product of capital-friendly inter-governmental contestation (MoU), which reduced the coverage of collective agreements between the signatory parties, interacts with pre-existing employer contestation patterns during the pre-crisis period. The outcome was the amendment of the law towards satisfying their demands, albeit with divergences between large employers and SMEs.

But crisis-related changes were not confined to the function of the national general collective agreement. They also characterised extension mechanisms. Legislation in 2011 imposed a temporary suspension of administrative extension of industry-level and occupational agreements during the application of the Mid-term Fiscal Strategy Framework (Law 4024/2011). In 2012, the then coalition-led government proceeded unilaterally to a second set of wide-ranging changes. Representing an instance of 'layering' in relation to the 2011 measures, the law introduced a maximum duration of three years for all collective agreements and placed a three-month limit on the application of expired collective agreements.<sup>2</sup> The suspension of the extension of higher-level collective agreements and the reductions in the statutory minimum wage rates that also took place led to the rapid 'exhaustion' of industry-level bargaining, as the rules effectively discouraged employers from continuing with it. These operated in conjunction with trade union resistance to wage cuts and led to blockades in the renewal of industry-level and occupational agreements.

While some of these measures, including the suspension of the extension mechanisms, are considered temporary, their effects on the industrial relations system may be permanent. This is primarily because the measures have strategically challenged the associational capacity of employers' organisations. Equally important, the suspension

2. If a new agreement is not reached, after the three-month period remuneration reverts back to the basic wage stipulated in the expired collective agreement, plus specific allowances, until replaced by those in a new collective agreement or in new or amended individual contracts. The allowances are based on seniority, number of children, education and exposure to workplace hazards but no longer based on marriage status.

of the extension mechanisms, together with the limited take-up of company-level bargaining has also meant the collapse of bargaining coverage, which now stands at around 10 per cent (Koukiadaki and Grimshaw 2016). This demonstrates how a mixture of ‘layering’ and ‘exhaustion’ could be deployed in a setting of abrupt change.

When the Syriza-ANEL anti-austerity government first assumed power in January 2015, it signalled its intention to reverse course. During the ‘post-deconstruction period’ of 2015–2016, a legislative proposal by the Syriza Parliamentary Group included the reinstatement of the regulatory function of the national general collective agreement with regard to the national minimum wage, as well as the six-month prolongation of collective agreements upon expiry (Article 72 Law 4331/2015). The conclusion of the third loan agreement in July 2015, however, meant that Greece was again compelled to ‘undertake rigorous reviews and modernisation of collective bargaining’ (European Council 2015) and led to the reversal of the legislation introduced by Syriza regarding the rules on the duration of collective agreements and the abandonment of a bill providing for the restoration of collective bargaining in respect of public servants. This case illustrates the error of portraying the third period of ‘stasis’ as a consensual one. The cause of the stasis was that Syriza’s demands for restoration, expressing the outcome of a labour-friendly political contestation, as expressed in the January 2015 elections, could not be translated into a labour-friendly political-legislative contestation because of the unfavourable inter-governmental contestation with the lenders.

## Security of bargaining

The level of ‘security of bargaining’, in terms of both the quantity and the quality of collective agreements, is highly dependent on the underlying balance of power between capital and labour. This section considers the legal and industrial relations evolution of two areas that reflect but also potentially steer this balance: (i) industrial action, one of the principal instruments of labour contestation against capital and functional prerequisite for ‘meaningful negotiations’ (Hyman 1975: 189–90; Ewing and HENDY 2012: 3); and (ii) the workers’ organisations with competence to conclude company-level agreements, a focal issue directly associated with the power dynamics of contestation in the Greek case. This section argues that there are mixed institutional patterns of continuity and discontinuity.

The legal trajectory on industrial action exhibits continuity, which is remarkable compared with other areas of collective labour law. In 2000, the inherited regime was embodied in Law 1264/1982. The latter allowed an extensive spectrum of types of industrial action, including (socio-economic) general, secondary and solidarity strikes, and prohibited lock-outs and the hiring of strike-breakers (Article 22). During the examined period, there were two exceptions to this continuity. First, during the deconstruction period, Law 3899/2010 extended the 10-day suspension of strikes previously reserved for cases of workers’ unilateral recourse to arbitration on all cases, even when employers initiated the process (Art. 14). Second, during the post-deconstruction period, the Syriza-ANEL government effectively ended the government practice of issuing so-called ‘civil mobilisation orders’ to participating strikers (Article 1

Table 13.3 Number of strikes in Greece, selected years

Year	Number of strikes	National general strikes (24 or 48 hours)*
1980	726	–
1985	456	–
1990	200	–
1995	43	–
1999 (first semester)	15	–
2003	12	–
2011	445**	4
2012	439	6
2013	443	5

Notes:

\* Strikes by general cross-industry confederations, the Civil Servants' Confederation (ADEDY, Ανώνυμη Διοίκηση Ενώσεων Δημοσίων Υπαλλήλων) and GSEE exceeding 24 hours.

\*\* Covers both normal strikes and brief cessations of work (στάσεις εργασίας).

Source: Katsoridas and Lampousaki (2012, 2013); Katsoridas *et al.* (2014).

of Law 4325/2015). Previously, governments over-stretched the narrow constitutional mandate, originally envisaged for truly exceptional cases such as war, natural disasters or situations liable to endanger public health (Article 22 para 3) to effectively suppress strikes (Tzouvala 2017: 18–26).

To illustrate how unions exploited lawful industrial action in practice we can highlight three features of the trajectory. First, the available data indicate a clear return of Greek industrial relations to a strike-prone path after the crisis.<sup>3</sup> As Table 13.3 illustrates, strike numbers reached a level reminiscent of the 'adversarial' 1980s and far above the 'consensual' 1990s.

Second, a quantitative analysis of strikes during the crisis shows that they were mainly defensive, reacting to immediate negative distributional consequences of the sharp austerity-induced recession on job security, rights and wages. Their principal grievances in 2011–2013 concerned the non-payment of wages, wage reductions, dismissals/restructuring and securing of labour and economic rights rather than the conclusion of collective agreements (Katsoridas and Lampousaki 2012: 91; Katsoridas and Lambousaki 2013: 24; Katsoridas *et al.* 2014: 11).

The third noticeable trend is the continuation of the use of strikes as a political weapon of contestation against the government (see Kritsantonis 1998: 525–26), in the form of general strikes. It is telling that from 1980 to 2006, 33 out of 72 general strikes in western Europe took place in Greece (Hamann *et al.* 2013: 1032). This may be the cumulative outcome of bargaining militancy, trade union cohesion, organisational

3. Caution should be exercised in relation to the data. After 2000, the Ministry of Labour ceased to formally record strikes and we rely on the informal data of the GSEE Institute of Labour for the period 2011–2013.

unity (Kretsos 2011: 266), the politicisation of industrial relations and the perceived feasibility of state intervention, in conjunction with their weak industrial position. During the deconstruction period, this trend continued, with four to six general strikes a year. These strikes were integrated into a wider mobilisation strategy of resistance to austerity, along with ‘demonstrations, clashes with the police and protests in the majority of Greek cities’ (Sergi and Vogiatzoglou 2013: 224; Psimitis 2011). In this sense, the general strike functioned more as a tool of political-legislative contestation than as an industrial one.

In light of preceding observations, one may reasonably pose the following question: how did strike legislation escape a hostile environment of ‘speedy liberalisation’ (Kornelakis and Voskeritsian 2014: 357), given that it may be expected that a neoliberal agenda would restrict the main area of labour contestation, namely industrial action? We suggest four complementary explanations, although there may be others.

The first cautions against exaggerating the permissiveness of the pre-crisis legal regime. As argued elsewhere, various ‘in-built’ balancing mechanisms containing the actual effect of strikes were in force (Koukiadaki 2014). Not only did Law 1264/1982 stipulate strict provisions for minimum safety personnel during industrial action, but employers successfully used jurisprudential contestation by relying on the ‘abuse of rights’ doctrine. The judicial practice of applying this civil law doctrine rendered otherwise procedurally-compliant strikes unlawful on the nebulous grounds that they exceeded the bounds of good faith, morality or the social or economic purpose of the right (Koukiadaki 2014). Moreover, austerity governments in the period 2010–2014 had taken frequent advantage of their civil mobilisation powers on six occasions: cleaning staff of municipalities, subway employees, seafarers, high schools, electricity company employees and lorry drivers (Tzouvala 2017: 25). Consequently, capital-friendly jurisprudential contestation, along with statutory mechanisms, handed employers important tools for containing the most effective industrial action, thereby obviating the need for a radical change in the legal framework.

The second explanation may lie in a gradualist or ‘step-by-step’ deployment of the neoliberal strategy. Considering the politically sensitive nature of strike legislation in the Greek context, the Troika<sup>4</sup> may have strategically opted for the long-game: focus on the deregulation of collective bargaining now and leave more contentious industrial action reform until later. Here the mobilisation of Greek society and political contestation could also be a factor in delaying the addition of a political contentious layer to the deconstruction of collective bargaining. The gradualist thesis is consistent with the introduction of strike reforms in the negotiation agenda after 2013. In 2014, the coalition government of New Democracy (ND, Νέα Δημοκρατία), PASOK (Panhellenic Socialist Movement, Πανελλήνιο Σοσιαλιστικό Κίνημα) and the Democratic Left (DIMAR, Δημοκρατική Αριστερά) suggested the imposition of majority thresholds among union members for the lawful declaration of strikes (Newsit 2014). Even though

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4. The term ‘Troika’ refers to the IMF, the European Commission and the European Central Bank. From January 2015, the Troika became a quartet with the addition of a representative from the European Stability Mechanism. The Chapter uses the terminology Troika for consistency.

this proposal was shelved, probably due to resistance of the junior partners PASOK and DIMAR (Koukiadaki 2014), the EU–IMF institutions put the issue of strike reforms in the third loan agreement, thus increasing the pressure of the inter-governmental contestation (European Commission and Greek Government 2015: 21).

Third, the overall deregulation of collective bargaining and the respective weakening of the unions, especially sectoral unions, may have been expected to perform a task functionally equivalent to strike restrictions by attacking the institutional and functional underpinnings for an effective strike. Fourth, the spike in strikes during the crisis should rather be regarded as a symptom of the foreclosed points of contestation for labour. Unable to influence either political or industrial contestation as a result of the 'capture' of the political system by the Troika and loan agreements and the deregulation in the industrial sphere respectively, strikes were the only available means of exercising voice for workers. The defensive nature of the strikes during the crisis seems to support this conclusion.

In stark contrast, the second area to be examined under 'security of bargaining' is a case of discontinuity. Following one particular conditionality (Greek government, November 2011), Law 4024/2011 empowered atypical non-union 'associations of persons' to conclude company-level agreements prior to industrial unions in the absence of a company union. Previously, such power was vested only in industrial unions.

This illustrates the type of change that Streeck and Thelen call 'conversion', defined as a redirection of an institution towards new goals, functions or purposes (2005: 26). The law used a pre-existing but marginal institution under Law 1264/1982 with no collective agreement powers and substantially reconfigured it. Previously, associations of persons functioned more as a subsidiary entity of workers' representation to trade unions (formed by a minimum of 10 workers in a company with fewer than 40 workers and providing that there was no union with more than half of employees as members). By contrast, an association of persons under Law 4024/2011 can be formed by three-fifths of workers regardless of the total number of employees.

This 'conversion' operates in the context of the two new MoU-imposed goals: decentralisation to the company level (Jacobs 2014) and internal devaluation (Armingeon and Baccaro 2012). Upon removing the critical safety valve of favourability, the Troika was looking for workers' institutions capable of exploiting the sub-minimum function of company agreements in relation to industry-level agreements. But company unions required at least 20 workers for their formation. This condition was hard to satisfy in an economy dominated by small- and medium-sized undertakings, typically employing fewer than 20 workers.<sup>5</sup> Even company unions were more reluctant to conclude collective agreements with significantly inferior terms and conditions for workers. 'Associations of persons' were resorted to in order to fill this gap. The law essentially converted an institution previously intended to protect workers' voice in exceptional circumstances into a main institutional carrier for effecting wage cuts, referred to euphemistically in MoU discourse as 'internal devaluation' or 'reductions

5. 96.8 per cent of enterprises employed fewer than 10 workers (micro-businesses) and 99.9 per cent fewer than 50 workers in 2016 (micro-businesses and medium-sized enterprises) (European Commission 2017).

in unit labour costs', in a 'negotiated', consensual manner. The 'negotiated' element is more apparent rather than real. These groups do not possess actual negotiating or even representative power as against employers (Achtsioglou and Doherty 2014: 228). This power asymmetry is aggravated by the lack of a 'permanent mandate to represent workers vis-à-vis the employer on collective issues of work' (GSEE argument in ILO 2012: para 826). As Travlos-Tzanetatos rightly puts it, their new status has the 'aim of disguising through pseudo-collective negotiations the essential surrender of terms and conditions to the unilateral power of the employer' (2013: 329–30).

The case of 'associations of persons' could be accounted for only by understanding the intimate relationship between institutional change and contestation. Here law, itself a product of the capital-friendly outcome of legislative-political and intergovernmental contestation, intervenes in capital–labour contestation in a rather unique way. It redistributes power to capital, not by changing the entitlements of each side but by strategically positioning labour, in the persons of the workers' representatives, in an advantageous way for capital. The mode of change also merits attention. Even though it is a case of conversion, it is not gradual. It can also be considered a form of 'bricolage'. The EU/IMF neoliberal designers, as *bricoleurs*, exploited latent and obscure material under the pre-existing regime and used it as means for achieving deregulation under the guise of 'collective negotiations'.

## Level of bargaining

Regarding 'levels of bargaining', the trajectory exhibits discontinuity. Law 1876/1990 was centred on a multi-level system of collective agreements, comprising the national general collective agreement, industry-level and occupational and company agreements, each with differing applicability. The main axis of these different levels of regulatory mechanisms was a strict hierarchy of bargaining levels on the basis of a 'favourability principle'. In contrast to developments in other countries, industrial actors in Greece did not include opening clauses in industry-level collective agreements that allowed, under certain conditions, a divergence from collectively agreed standards for the worse. In terms of vertical coordination, the institutionalised option of *in melius* derogation effectively allowed scope for bargaining on terms and conditions at a higher standard than those bargained at higher, inter-sectoral, industry or occupational levels. Further, the operation of the extension mechanisms was seen as promoting bargaining coordination, albeit with some limitations due to the complex interplay between the industry- and occupational-level agreements, the relative lack of a leading export sector and the large number of SMEs (Koukiadaki and Grimshaw 2016).

Despite the relative stability of the collective bargaining framework, employers' associations were increasingly critical of the bargaining framework during the 'protective' period. Once again, this manifests the highly contested nature of the pre-crisis framework. A key issue was the problem of so-called 'asymmetry' in arbitration (see section below on Degree of control). Another concerned the interplay in the application of industry- and occupational-level agreements. While the 1990 legislation gave priority to industry-level agreements, certain occupational agreements continued

to operate in the pre-crisis period, arguably hindering the scope for bargaining coordination at industry level (Ioannou 2011). The multilevel bargaining system was seen as fostering only upward wage flexibility because more decentralised negotiations were not allowed to worsen already attained outcomes (Daouli *et al.* 2013). These criticisms, along with those directed against the strict form of employment protection legislation, were echoed in the reports and recommendations of a number of international organisations, including the Organisation for Economic Cooperation and Development (2001). The introduction of local employment pacts (TSA, Τοπικά Σύμφωνα Απασχόλησης), which were meant to promote collective agreements at local level (Law 2639/1998), provides evidence of the gradualist elements that may be present within an overall 'punctuated equilibrium' model of institutional change. While 1998 legislation provided, under certain conditions, scope for establishing lower wage levels than those at industry-level,<sup>6</sup> there was very limited evidence of take-up by the actors. Unions interpreted them as an attempt to deregulate the labour market (Palaiologou and Papavasileiou 2000), while employers derided the 'statist' character of their set-up (Tsarouhas 2008).

The regulatory framework sustaining this multi-level bargaining system was one of the first to be affected by the legal changes in the 'crisis' period. In an attempt to create 'a more flexible bargaining system' (ILO 2011: 26), a new type of company collective agreement, namely 'special company collective agreements',<sup>7</sup> was introduced allowing opt-outs from wage levels agreed at the industry level, provided notification requirements were met. The agreements were intended to 'exhaust' industry-level bargaining, by allowing company-level bargaining that was expected to deprive the higher-level agreements of their protective effect. There was evidence of limited take-up by the actors:<sup>8</sup> instead, wage cuts and other changes were usually the result of agreements with employees on an individual basis. Following further pressure by the institutions representing Greece's official creditors (European Commission [EC], IMF and European Central Bank [ECB]), legislation was introduced to provide scope for all companies (including those employing fewer than 50 persons)<sup>9</sup> to conclude company-level collective agreements provided that, in the case of companies with no unions, three-fifths of the employees formed an 'association of persons' (see section above on Security of bargaining). Crucially, these changes were coupled to the introduction of a temporary (during the application of the Mid-term Fiscal Strategy Framework) suspension of the application of the favourability principle (Law 4024/2011). This pattern combined an overall abrupt change with gradualist elements, as evidenced by the introduction of 'special company collective agreements' before the overall suspension of the favourability principle. The overall effect of the legal changes on the industrial relations system was radical.

6. Conditions included the approval of the local Labour Centre in cases in which the work was directly related to the TSAs, while in the case of companies that operate in regions where TSAs had been concluded or where levels of unemployment were high, such deviations from higher-level agreements could even take place via individual negotiations between the employer and the employee.

7. Art. 13 Law 3899/2010.

8. The Greek government's response (case document no. 5) to Collective Complaint 65/2011 by the General Federation of Employees/Public Power Corporation-Section of Electric Energy (GENOP/DEI) and ADEDY to the European Committee of Social Rights.

9. In the previous system, there was no right for company-level bargaining in companies with fewer than 50 employees and only industry-level and occupational collective agreements could apply.

First, the change in the regulatory function of the national general collective agreement (see section above on Extent of bargaining) impacted not only on the agreement itself but also on its interplay with lower-level agreements, weakening coordination across sectors, particularly because wage bargaining has largely moved to the company rather than to the industry level. Second, there was significant contraction of industry- and occupational-level agreements in most sectors, limiting the scope for coordination across different bargaining units. Among other things, industry-level bargaining in metal manufacturing collapsed, as it was one of the first sectors to be affected by the crisis due to its international exposure and sensitivity to the fall of demand in the construction industry (Koukiadaki and Kokkinou 2016). Importantly, some of these outcomes were related to the pre-crisis contestation in industrial relations that revolved around wage flexibility. But even in cases in which bargaining in the pre-crisis period was consensual, as in retail, the absence of legal/institutional incentives that would have persuaded the parties to sit at the negotiating table meant the lack of renewal of collective agreements. Third, in terms of institutional change, the suspension of favourability could be regarded as a radical form of ‘conversion’ of collective bargaining, as far as its protective function is concerned. While previously collective bargaining/agreements could only ameliorate workers’ terms and conditions as compared with other concurrent collective agreements, in the new regime they can also worsen them.

Driven by the legislative changes prioritising company bargaining and permitting negotiations with unspecified employee representatives (associations of persons) in smaller companies, there was an upsurge in company agreements at the expense of industry-level ones, further complicating the scope for coordination and instead increasing the scope for ungoverned and fragmented bargaining patterns. In stark contrast to the pre-crisis landscape of bargaining, company-level agreements are now the predominant form of collective bargaining and in 2015 they represented 94 per cent of all collective agreements. This trend constitutes a continuation of the developments in the previous years, especially during the period 2012–2015, during which company-level agreements exceeded 90 per cent of all agreements (2012: 97.11 per cent, 2013: 96.69 per cent, 2014: 93.77 per cent) (INE-GSEE 2016: 20). The highest rate of company-level agreements was reported in 2012 (976 agreements in contrast to 170 in 2011).<sup>10</sup>

In the period 2013–2016, the overall number of company-level agreements declined, but with no change in the percentage vis-à-vis other types of agreements. The reduction in the number of company agreements is linked to the direct intervention of the legislator with regard to the *erga omnes* effect of the national general collective agreement, the reduction of the minimum wage down to €586, €510 for young people under 25 years of age and the expiry of industry-level agreements. These changes reduced the incentive for employers to proceed to the conclusion of company-level agreements, even with ‘associations of persons’ (Koukiadaki and Grimshaw 2016), inducing a drift from the newly promoted company-level bargaining. Despite the increase in the number of company-level agreements, even with ‘associations of persons’, there is no evidence to suggest that, in absolute numbers, there has been a generalised use of single-employer arrangements. The absence of procedural guarantees from the legislation, the lack of

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10. The year 2012 marked the start of the implementation of Law 4024/2011.

provisions articulating negotiations between the industry and company levels and the prevalence of SMEs meant that the most widespread employer responses involved either unilateral employer action, in the case of workers previously paid on the basis of the national general collective agreements, or individual negotiations (Koukiadaki and Grimshaw 2016). This evidence of 'exhaustion' in respect of the incidence of company-level agreements stands in sharp contrast to the institutional change discourse developed by the Troika at the intergovernmental level of contestation and exposes in turn the dissonance between rhetoric, namely company-level decentralisation, and reality, that is, decollectivisation of industrial relations.

## Depth of bargaining

Bargaining depth, as articulated by Clegg (1976), is intrinsically linked to the internal organisation of trade unions. Here the focus is on two areas with different forms of institutional change: (i) union financing (gradualism, layering and displacement), together with (ii) dualism in employment practices (gradualism and exhaustion).

It is clear that a range of resources, including financial ones, is required for the development of internal union capacity. In this respect, the changes in how the unions have been funded provide further confirmation of the gradualist tendencies characterising the 'crisis period' and the adoption of radical 'structural reforms'. In the pre-crisis period, both GSEE and the secondary level labour organisations were funded by means of a compulsory contribution system administered by the Ministry of Labour: this drew on employers' and workers' social security contributions on behalf of the Workers' Welfare Organization (Ergatiki Estia, Εργατική Εστία).<sup>11</sup> It was this mechanism, alongside EU subsidies, which constituted the principal source of trade union funding (Yannakourou and Soumeli 2004), leading to criticism of trade union dependence on employers and the state (Tsakiris 2012). Pressures exerted by successive governments in the period 1991–1993 led to a significant reduction in trade union funding, threatening the unions with financial asphyxiation (Kouzis 2007: 175–89).

The use of political power to suppress trade union resources, however, re-emerged in the crisis period, as the contestation over union funding moved to the intergovernmental level in the context of loan agreements. In November 2012, the contributions to the Ergatiki Estia were reduced by 50 per cent, the organisation was abolished and a new source of funding for trade unions was provided within the budget of the Manpower Agency of Greece (OAED, Οργανισμός Απασχόλησης Εργατικού Δυναμικού). This could be seen as a case of 'layering' and 'displacement' because of the reduction of funding levels and their assumption by another institution. The election of the Syriza-ANEL government did not halt creditors' demands for reforms in this area and pressures have been made to introduce further limits on the extent of union funding. As a result, the financing gives another example of pre-crisis gradualist tendencies accelerating during the crisis, as well as an example of layering.

11. Employers and workers contributed an equal amount (0.25 per cent) to the funding of the organisation.

Second, while the depth of bargaining, as elaborated by Clegg (1976), focuses on the dynamics inside trade unions, the way business is organised may have profound implications for the depth of bargaining itself. Indeed, a central characteristic of employment relations practices in Greece, as in other economies of southern Europe, has been the division between larger private and public sector enterprises and SMEs (Psychogios and Wood 2010). The different scale of business organisation has a number of implications for industrial relations: the use of sophisticated HR techniques and the higher unionisation rates in larger employers have traditionally entailed the formalisation of processes related to collective bargaining at company level, where this takes place. In contrast, SMEs tend to rely on a paternalistic approach to employment relations, leading to highly personal HR policies and lack of formalised procedures of employee voice, including collective bargaining.

The dualism in employment practices between large and smaller employers was consolidated during the crisis. The absence of regular information and consultation procedures, which would have enabled the development of a culture of dialogue, especially in SMEs, limited the scope for using the new rules to promote decentralisation via collective agreements. As analysed above, the general trend has instead been one of reliance on individual negotiations. Where company-level agreements were concluded, there were concerns, including among employers' associations, about the rapid increase in such agreements in a context of limited training and cognitive resources that would enable managers, especially in small companies, to respond to the new landscape. What is more, the changes in the 'associational capacity' of employers' organisations affected not only the scope for the renewal of industry/occupational agreements but also the effective implementation of existing, higher-level agreements at company level. The lack of information regarding the membership levels of the employers' associations hindered compliance with higher-level collective agreements and further consolidated the lack of trade union pressure towards renewing industry-level agreements in the service sector (Koukiadaki and Grimshaw 2016). Here one could observe a case of 'layering' and 'exhaustion', to the extent that the overall context of all the rules serves to deepen this dualism and to interact synergistically with the other regulatory changes eventually to bring about the individualisation of employment relations.

## **Degree of control of collective agreements**

One of the distinctive features of the Greek system is the constitutional provision of a system of compulsory arbitration of collective disputes (Art. 22 of the Greek Constitution). Arbitration awards are fully assimilated to collective agreements in terms of their automatic binding normative effect. Arbitration operates as *ultimum remedium* preventing a market determination of disputes in which the employee is the weaker party (Katrougalos 2012: 236). It also seeks to maintain social peace by resolving disputes and safeguarding an elementary subsistence level for workers in small enterprises with weak trade unions (Koukiadis 2009: 157). Law 1876/1990 permitted recourse to arbitration in three cases: (i) if both parties agree; (ii) if either party rejected the recourse to mediation; and (iii) if the employers rejected the mediator's proposals but the employees accepted them - but not vice-versa, the so-called 'asymmetry principle'.

Table 13.4 Collective agreements and arbitration decisions in Greece, 2010–2016

Issue	Regional/local occupational		Industry-level/national occupational		Company	
	Collective agreements	Arbitration decisions	Collective agreements	Arbitration decisions	Collective agreements	Arbitration decisions
2010	14	5	65	30	227	13
2011	7	1	38	17	170	8
2012	6	0	23	8	976	0
2013	0	0	14	0	409	0
2014	5	0	14	3	286	0
2015	7	0	12	11	263	1
2016	6	0	10	10	318	4

Source: Ministry of Labour and Social Security.

In 2003, even during the 'protective period', the employers Federation of Northern Industries (SVVE, Σύνδεσμος Βιομηχανιών Βορείου Ελλάδος) successfully challenged the unilateral recourse to arbitration at the ILO. Siding with the employers, the Committee on Freedom of Association considered unilateral recourse inconsistent with the 'principle of free and voluntary collective bargaining' (ILO 2003). In apparent tension with this transnational jurisprudential contestation, the Greek courts reached the opposite conclusion by finding for the existing scheme permitted by the Constitution (Areios Pagos 25/2004). It was only after 2010 that the intergovernmental contestation of the loan agreements satisfied employers' demands by modifying the legal regime. The transformation occurred in two steps. Initially, the law extended the right of unilateral recourse to both sides (Art. 14 of 3899/2010). Subsequently, the Ministerial Council Act 6/2012, implementing the second loan agreement (March 2012), mandated the consent of both parties for recourse to arbitration and confined the scope of arbitration awards to the basic wage, not, as previously, to the entire dispute. It comes as no surprise that the abolition of unilateral recourse was found compatible with ILO standards (ILO 2012: para 1000), given its previous jurisprudence. The Council of State (STE, Συμβούλιο της Επικρατείας), however, invalidated these arbitration reforms as unconstitutional by holding that the Constitution requires a system of unilateral recourse (STE 2307/2014; Katsaroumpas 2017). This labour victory, in the field of jurisprudential contestation, restored the legislative framework. Parliament, however, responded by creating a burdensome process, evidently seeking to restrain the restorative effect. Law 4304/2014 established a time-consuming process that conflicts with the need for rapid dispute resolution, most urgently important for workers. The law added to the ordinary judicial appeal to domestic courts an arbitration appeal process that, crucially, suspends the first-instance arbitration award.

The arbitration saga is another case of law-driven transformation of a principal feature of Greek industrial relations. As Table 13.4 illustrates, consensual recourse essentially brought the institution to a standstill. It is characteristic that between 2010 and 2014 there were no arbitration awards among 1,671 company agreements.

From an institutional-change perspective, five observations could be made. First, the multiple legislative interventions in arbitration are part of a broader strategy to tilt the balance of power towards employers by putting collective negotiations in the shadow of market forces, which, especially in the crisis context, are overwhelmingly favourable to the employers. These changes were instrumental in altering the field so that contestation becomes harder for workers. Notably, employers quickly adjusted their strategy in the face of the new legislation handed to them by intergovernmental contestation, refusing arbitration in disputes. Second, arbitration reforms could be characterised as a form of ‘strategic selective layering’. This means that a single provision is altered, such as recourse mechanisms, with the planned strategic effect of effectively annulling the entire institution within the specific power context of Greek industrial relations. Third, the mode of the initial MoU-driven deconstruction was gradual, realised in two-steps: (i) elimination of the pro-worker asymmetry in unilateral recourse and then (ii) elimination of unilateral recourse altogether. This again evidences patterns of gradualism within the overall trajectory of radical transformation. Fourth, the case of arbitration exposes the deficiency of a wholly exogenous account of the Greek crisis transformation that ignores the continuity of the capital–labour contestation. The employers’ long-standing contestation, expressed in their dissatisfaction with unilateral recourse, operated synergistically with the transnational contestation of the loan agreements to satisfy the employers’ demands. Finally, arbitration is an example of interlocking and, to an extent, competing fields of contestation. A deregulatory international jurisprudential and transnational contestation conflicts with the domestic jurisprudential contestation that reversed some of the reforms. Here it is also important to stress that ILO rules do not always operate advantageously for workers; for example, they interacted synergistically with the Troika’s demands for austerity in the teeth of domestic worker-protective jurisprudence (Katsaroumpas 2017).

## Scope of agreements

This section examines the ‘scope of agreements’ by examining the subject-matter of collective agreements. It argues that the crisis change could be described as ‘exhaustion’, while tracing patterns of consistent contestation in the period of stability.

The notion of collective autonomy, as articulated in Article 22(2) of the Greek Constitution, encompasses all issues that refer to the employment relationship. Consistent with the Constitution, Law 1876/1990 adopts a wide definition of the terms and conditions of employment that may be subject to collective bargaining, covering in principle all the employment issues of mutual interest to employers and employees, with certain restrictions with regard to retirement issues. In practice, it means that delineating boundaries as regards issues dealt with at different levels and different regions should be an issue for the social partners and not for the legislator (Koukiadis 2013).

As discussed above, the right to collective bargaining was recognised in the period of stability in the case of the public sector. The relevant legislation provided for two types of outcome: collective agreements and so-called ‘collective accords’. Collective agreements could cover a variety of institutional issues, while collective accords could cover wage

and pension issues, as well as the organisational structure of public sector bodies. The former were concluded through voluntary collective bargaining between the state and representative organisations of public sector employees. The latter were agreed by the same parties and included an undertaking that the state would issue an administrative decision or promote legislation with specific content so as to comply with the provisions in the collective accord. Despite this legislative framework, very limited use was made of it in the context of developing collective bargaining in the public sector, including in education.

In the private sector, predominantly because of its regulatory function in the 'stability period', the national general collective agreement was of particular significance in terms of signalling changes in the direction of Greek industrial relations. In the early 2000s, there was evidence that the introduction of Law 1876/1990 had led to a broadening of the bargaining issues to include issues related to work organisation, such as hours of work and health and safety (Mouriki 2002). In turn, this seemed to promote greater coordination between agreements signed at different levels (Zambarloukou 2006). Trade union attempts were focused on reducing working time and the unemployment rate, while employers' associations, particularly SEV, were concerned to promote labour market flexibility (Aranitou 2012).

Although bargaining was consensual, a multi-field contestation involving the political/legislative and industrial relations spheres surfaced at different times during the period of stability (Koukiadaki and Grimshaw 2016). A number of factors were influential, including the pre-crisis fragmentation of institutions, the frequent changes in government and the impact these had on regulatory priorities and strategies, the lack of trust between the government and the industrial relations actors and the reliance of actors instead on informal mechanisms of coordination (Yannakourou 2015; Aranitou 2012). These criticisms were echoed in the report prepared by the Committee of Independent Experts in 2016, in which it was concluded that 'the scope of collective bargaining in Greece, compared to other European countries, is relatively narrow and does not sufficiently include new issues like lifelong learning, integration of young people, working time flexibility, reduction of the gender pay gap, improvements of work–life balance or productive improvements' (Committee of Independent Experts 2016: 34).

Similar trends were observed at lower levels, namely industry/occupational and company bargaining, with the latter concentrating primarily on issues related to wages and allowances. In some cases, industry-level and occupational collective agreements simply reiterated the regulatory terms of the national general collective agreement without any significant innovations (Yannakourou and Soumeli 2004). A slightly different picture was available at company level, where collective bargaining had not traditionally been widespread. Collective agreements, where they existed at that level, in the pre-crisis period dealt with a wider range of issues, including linking remuneration with productivity and providing discretionary benefits to employees, such as private insurance (Yannakourou and Soumeli 2004).

During the crisis period of May 2010–2014, the operation of the new legal/institutional framework significantly inhibited the scope for development of more meaningful social dialogue at the national general level, cementing even further the pre-crisis patterns of agenda setting. By effectively negating the role of the agreement in setting the national minimum wage, the legal changes foreclosed any scope for possible trade-offs, for instance, involving wage moderation in return for employment objectives (for examples of how this played out in other countries, see Glassner *et al.* 2011). Some evidence of change was to be found in the 2014 National General Collective Agreement, which included commitments regarding cooperation on new issues, including vocational training and social welfare, but also competitiveness, entrepreneurship and innovation. Much rests on how industrial relations actors choose to follow up these commitments.

As already analysed, the crisis-related ‘reforms’ led to the freezing of the renewal of higher-level industry/occupational agreements as well. This, in conjunction with the changes in the arbitration rules, resulted, according to some employers’ associations, to a broadening of the bargaining agenda in certain sectors. There were no concrete outcomes in terms of successfully renewing collective agreements at this level, however, with the single exception of the hotel sector (Koukiadaki and Grimshaw 2016). In effect, the suspension of the extension mechanisms had a ‘chilling effect’ on the propensity of the parties to conclude agreements at this level, thus excluding any possibility for concerted action. Further, there was limited evidence of consideration being given by the parties to incorporating issue-based clauses devolving regulation of specific issues, such as working time, to company-level negotiations and/or clauses allowing one-time deviations in situations of hardship (Hayter 2016). Again, the relative upsurge of company-level bargaining, initially in conjunction with individual negotiations and latterly dominated by individual negotiations, as a way of effecting changes in the employment relationship removed the incentives for the parties to agree jointly on the scope and conditions for derogations/deviations from higher-level agreements (Koukiadaki and Grimshaw 2016). All this demonstrates the crucial effect of political-legislative contestation on industrial relations contestation. It also shows that, despite the absence of legal changes dealing directly with the scope of bargaining issues, law can have still a restraining effect by altering complementary institutions. In the institutional-change terminology, it represents an instance of ‘exhaustion’. This is because, even though the law permits a wide range of bargaining, the overall legal and institutional environment has the effect of undermining collective bargaining.

## Conclusions

This chapter has applied a contestation-based account of institutional change to the Greek legal and industrial relations trajectory of collective bargaining. While we accept the characterisation of the trajectory as ‘speedy neo-liberalisation’ (Kornelakis and Voskeritsian 2014: 357), ‘punctuated’ by the crisis period, we nonetheless argue for three important qualifications.

First, evidence was found to suggest that some of the changes, for example regarding the rules on arbitration and the operation of the favourability principle, as well as the

*modus operandi* for their adoption, did not emerge from the crisis; rather their seeds were planted in periods of stability. Hence, Greece illustrates that while institutional change may be concentrated in a dense 'punctuating' period of legal change it may still be characterised by gradualist elements, illuminating points of contestation in the pre-crisis and crisis periods and legitimising the demands of those actors and institutions that dominate the policy agenda at times of crisis. Not only were there gradualist elements in the previous period of stability, 2000–2010, but even the transformation period exhibited gradualist or step-by-step patterns. In terms of institutional change, this indicates that even radical change can be effected in stages. Second, the overall transformation combined a surprisingly diverse set of institutional change and continuity modes. These include continuity: strikes; displacement: union financing, minimum wage, favourability and 'associations of persons'; 'layering': duration of collective agreements, extension mechanisms of industry-level agreements and union financing, recourse to arbitration, dualism between large and smaller employers; 'exhaustion': suspension of extension mechanisms for collective agreements; 'dualism': scope of collective agreements; and 'bricolage': 'associations of persons'. Third, the 'legal stasis' of the third period occurred despite strong contestation caused by the coming to power of a government elected on a strong anti-austerity platform.

This brings us to some further analytical observations. It is crucial to capture the continuity of the contestation between capital and labour in its different areas, enabled by our power-based account. Our account exposes the synergies between employers' demands and the capital-friendly environment generated by the crisis. As Jessop has argued, regulation is not just about formal laws but also tacit understandings (2001). In this respect, key features of Greek industrial relations, even in the 'stability' period, were the persistent disarticulation between regulatory features and actual firm-level practices (Psychogios and Wood 2010) and the recurring instances of contestation between industrial relations actors and institutions, which manifested themselves at multiple levels. Furthermore, the key role of the law as an instrument of design of institutional change should be underlined. Law was decisive in altering the rules of the game, thus making contestation more difficult for workers. This alteration emerged as the combination of the political-legislative and intergovernmental contestation, which is rarely blocked by jurisprudential contestation, with the exception of arbitration. In addition, the analysis shows that Streeck and Thelen's types of change could account for both 'gradual' and 'abrupt' change.

Following these radical interventions, the Greek collective bargaining system has been fundamentally transformed. The absence of extension mechanisms for higher-level agreements, the apparent defection of employers from their associations, the absence of a clear framework guiding company-level bargaining and the low trade union density have prompted the development of 'disorganised' decentralisation and the collective bargaining system that is emerging could best be described as 'poorly governed' (Koukiadaki and Grimshaw 2016). More broadly, the changes are consistent with a conceptualisation of collective agreements no longer as public goods with inclusive regulatory coverage, but as private goods with exclusive regulatory coverage in those companies in which unions or, less beneficially, 'associations of persons' have been established (Marginson 2014). In Ewing's terminology, there has been a move from

‘regulatory’ effects on non-union members to ‘representational’ bargaining, affecting only union members (Ewing 2005: 4). The fall in bargaining coverage confirms this, as coverage is now converging to the level of union membership in Greece.

It is only by closely examining the patterns of the Greek case that we can grasp the complex and varied ways by which neoliberalisation has been advanced. This chapter has shown how a contestation-based account could help to elucidate the particularities of Greek neoliberalisation. To the extent that Greece is depicted as an exemplary case of this (Koukiadaki and Kretsos 2012; Countouris and Freedland 2013; Katsaroumpas 2013; Kennedy 2016), the significance of the Greek case goes beyond its particular features. Looking at how neoliberalisation works can help in the development of further research on its implications for law and industrial relations and inform future strategies for resistance and reconstruction.

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All links were checked on 5 April 2018.

## Abbreviations

ADEDY	Ανώτατη Διοίκηση Ενώσεων Δημοσίων Υπαλλήλων (Civil Servants' Confederation)
ANEL	Ανεξάρτητοι Έλληνες (Independent Greeks)
DIMAR	Δημοκρατική Αριστερά (Democratic Left)
EC	European Commission
EET	Ελληνική Ένωση Τραπεζών (Hellenic Bank Association)
Ergatiki Estia	Εργατική Εστία (Workers' Welfare Organization)
ESEE	Ελληνική Συνομοσπονδία Εμπορίου & Επιχειρηματικότητας (Hellenic Confederation of Commerce and Entrepreneurship)
ESTE	Ένωση Συναιεριστικών Τραπεζών Ελλάδος (Association of Cooperative Banks of Greece)
EU	European Union
GSEE	Γενική Συνομοσπονδία Εργατών Ελλάδος (General Confederation of Greek Workers)
GSEVEE	Γενική Συνομοσπονδία Επαγγελματιών Βιοτεχνών Εμπόρων Ελλάδας (Hellenic Confederation of Professionals, Craftsmen and Merchants)
ILO	International Labour Organization
OAED	Οργανισμός Απασχόλησης Εργατικού Δυναμικού (Manpower Agency of Greece)
OECD	Organization for Economic Cooperation and Development
OMED	Οργανισμός Μεσολάβησης και Διαιτησίας (Organization for Mediation and Arbitration)
MOU	Memorandum of Understanding
ND	Νέα Δημοκρατία (New Democracy)
NMW	Εθνικός Κατώτατος Μισθός (National Minimum Wage)
PASOK	Πανελλήνιο Σοσιαλιστικό Κίνημα (Panhellenic Socialist Movement)
SEV	Σύνδεσμος Επιχειρήσεων και Βιομηχανιών (Hellenic Federation of Enterprises)
STE	Συμβούλιο της Επικρατείας (Council of State)
SVVE	Σύνδεσμος Βιομηχανιών Βορείου Ελλάδος (Federation of Northern Industries)
Syriza	Συνασπισμός Ριζοσπαστικής Αριστεράς (Coalition of the Radical Left)
TSA	Τοπικά Σύμφωνα Απασχόλησης (Local Employment Pacts)