7. Trade Union Participation and Influence in Decentralised Collective Bargaining

Mia Rönnmar, Marcus Kahmann, Andrea Iossa, Jan Czarzasty,[1] Valentina Paolucci

Abstract

The aim of this chapter is to analyse the role of trade unions in decentralised collective bargaining, specifically regarding trade union and works council participation in and influence on the processes and outcomes of collective bargaining at company level. To identify and explain differences and similarities in trade union and works council practice regarding company-level collective bargaining, the authors use an analytical framework based on the power resources approach and focus on structural, associational, and institutional power. The analysis suggests a degree of interchangeability in these power resources. Structural power resources are, for example, important for the outcomes of company bargaining, however, institutional and associational power resources may complement the lack or presence of such structural power resources.

Keywords: trade unions, works councils, collective bargaining, decentralisation, worker participation, power resources

Introduction

There is a general trend in many EU member states towards decentralisation in collective bargaining, as introduced in Chapter 1 of this book. The aim of

1 The Polish contribution to this chapter is published as part of an international research project co-financed by the Ministry of Science and Higher Education in Poland, under the "PNW" scheme in 2020–2022, under agreement no 5159/GRANT KE/2020/2.

Frank Tros (ed.). *Pathways in Decentralised Collective Bargaining in Europe.* Amsterdam: Amsterdam University Press, 2023
DOI 10.5117/9789048560233_CH07

this chapter is to analyse the role of trade unions in decentralised collective bargaining. More specifically, we take an interest in trade union and works council participation in and influence on the processes and outcomes of collective bargaining at company level.

A comparative approach is adopted, and the chapter contributes to the discussion on trade unions and decentralised collective bargaining through an analysis of similarities and differences across countries, sectors, and companies.

To identify and explain differences and similarities in trade union and works council practice regarding company-level collective bargaining, we use an analytical framework based on the power-resources approach (Lèvesque & Murray, 2010; Schmalz, Ludwig, & Webster, 2018). This approach is used as a filter for understanding whether and to what extent trade unions have been able, or willing, to mobilise certain power resources to impact the process and outcomes of company-level collective bargaining (see also Müller & Platzer, 2018). The power-resources approach has been frequently used in industrial relations research over the last decade, but its operationalisation for the comparative analysis of decentralised bargaining has been limited.

Labour power is unevenly structured and distributed in different national and sectoral contexts. However, from the extensive literature on power resources, it is possible to identify four commonly recognised forms through which it proceeds: structural; associational; institutional; and societal power resources. We consider that all of them have a potentially prominent role in shaping and influencing the dynamics and modalities of decentralised collective bargaining. The relationship between these forms is complex, sometimes conflicting, and not simply an add-on (Schmalz, Ludwig, & Webster, 2018). In our analysis of company cases, we found no significant mobilisation of societal power resources by trade unions and works councils. Therefore, the analytical framework in this chapter focusses on the following three forms of power resources:

a) *structural power* refers to the bargaining power of the workforce derived from its location in the labour market as well as in the production process (Wright 2000). Marketplace bargaining power derives from scarce skill or competences that make them valuable to their employer and difficult to replace. Workplace bargaining power is based on workers occupying strategic positions in production, such that disruptive action will impose highs costs on the employer. In industries with high productivity and highly integrated production, workers' bargaining power is particularly elevated as the impact of work stoppages goes far beyond the workplace.

b) *associational power*, unlike structural power, relies on the formation of collective actors (political parties, works councils, trade unions). It can partly compensate for the lack of other types of power resources (Hyman & McCormick, 2013). Union membership and voter approval in works council elections are common indicators for associational power. However, they are insufficient as a base. To become effective, numerical strength must be combined with other factors such as membership activism and participation, adequate infrastructural resources, and internal cohesion (Lévesque & Murray, 2010).
c) *institutional power* refers to the institutional and legal supports that bolster – and restrict – union action. It may provide a substitute for dwindling associational and structural power (Hyman & McCormick, 2013). Institutional power is distinctive in that it is relatively independent of the business cycle and short-term political change (Schmalz & Dörre, 2014). It includes institutions of economic and welfare governance that impact the unions' capacity to represent workers, but also their position in tripartite arrangements, collective bargaining, and workplace representation. Labour law and industrial relations systems are crucial sources of institutional power.

The content and outline of the chapter are as follows. In a first step, the chapter discusses a selection of key aspects related to trade union participation in and influence on the processes and outcomes of decentralised collective bargaining at company level from a cross-country and cross-sectoral comparative perspective. Firstly, we present an analysis of the institutional and legal framework of trade unions and decentralised collective bargaining, which is of great importance for institutional power. Secondly, we provide an analysis of trade union coordination and social partnership, which are of great significance for generating and maintaining associational and institutional power. Then, we discuss and analyse trade union membership, organising, and participation as a crucial resource of associational power.

In a second step, and in light of the discussion in the previous sections, this chapter provides a comparative company case studies analysis, utilising the power-resources approach, and presents an analysis of company-level trade union practices, processes and outcomes of decentralised collective bargaining. The final section contains some concluding remarks.

This chapter discusses developments in eight EU member states, i.e., France, Germany, Ireland, Italy, the Netherlands, Poland, Spain, and Sweden. These countries represent an interesting institutional diversity, which can be discussed in terms of comparative typologies, such as *varieties of*

capitalism and liberal market economies (LMEs) and coordinated market economies (CMEs) (Hall & Soskice, 2001), *varieties of unionism* (Kelly & Frege, 2004), and *varieties of labour law and industrial relations systems* (Hepple & Veneziani, 2009; Finkin & Mundlak, 2015; Barnard, 2012; Marginson & Sisson, 2004; and Bamber et al., 2021). Although these comparative typologies contain elements of simplification, they still fulfil valuable pedagogical and analytical functions. The comparative case studies analysis in this chapter focuses on company case studies in France, Germany, and Ireland. The chapter builds on materials, analysis, and conclusions produced within the framework of a joint European-comparative research project (Tros, 2022).

Institutional and legal framework of trade unions and decentralised collective bargaining

This section analyses the institutional and legal framework of trade union rights and activities and decentralised collective bargaining, which constitutes a primary source for trade unions' institutional power. The discussion focusses on the national level and cross-country comparison.

Industrial relations and institutional framework

The countries subjected to study represent the Anglo-Irish, Continental European, Eastern European, Nordic, and Southern European labour law and industrial relations systems, as well as the common and civil law distinction. The variety of labour law and industrial relations systems manifests itself in differences as regards, for example, the importance of constitutional principles, the balance between legislation and collective bargaining, the degree of state influence or voluntarism, the role of the courts and case law, the degree of trade union organisation and collective bargaining coverage, and forms of employee representation and influence.

Labour law and industrial relations in Ireland, Italy, and Sweden reflect a particularly strong emphasis on voluntarism, collective autonomy, and contractual regulation of terms and conditions of employment through collective agreements and employment contracts (Paolucci et al., 2022; Armaroli & Tomassetti, 2022; Rönnmar & Iossa, 2022). For example, in Sweden, most of an employee's terms and conditions of employment, including wages, are set by collective agreements, and there is no minimum wage legislation or system for extension of collective agreements. Autonomous collective bargaining is complemented, and strengthened, by statutory regulation

on trade unions, collective bargaining, and employee influence, including information, consultation, and co-determination. In addition, most statutory regulation is 'semi-compelling', and provides room for deviations by way of collective agreements.

In France, as in Spain, labour law and industrial relations are characterised by a legalistic tradition, extensive statutory regulation in working life and on trade unions, collective bargaining, and employee influence, and state intervention in industrial relations (see further Chapter 5; Muñoz Ruiz et al., 2023). In France, there is minimum wage legislation, and a statutory system for extending collective agreements, resulting in an almost complete collective bargaining coverage. In recent years, state intervention and statutory reform, for example, the "Macron Ordinances" have reframed the system of employee representation and influence and introduced a compulsory division of collective bargaining topics among levels (Kahmann & Vincent, 2022).

In Germany, labour law is influenced by a legalistic tradition and characterised by an elaborate constitutional and statutory framework for collective bargaining and employee influence and workplace co-determination. At the same time, there is strong emphasis on collective autonomy and collective bargaining. There is a system in place for extending collective agreements, but in recent years fewer collective agreements have been declared generally binding. Minimum wage legislation was introduced in 2015, in response to an "erosion of collective bargaining" (Haipeter & Rosenbohm, 2022).

In Poland, finally, labour law and industrial relations have been influenced by the processes of democratic transformation, EU enlargement, and marketisation, resulting inter alia in fragmented collective bargaining (Czarzasty, 2022).

The interplay between legislation, collective bargaining, extension of collective agreements, and minimum wage regulation is at the core of the labour law and industrial relations system, and of importance for the processes and outcomes of company-level collective bargaining. Furthermore, the adversarial or cooperative character of social partner relations, the organisation of the labour market, trade union structures, such as trade union pluralism and trade union demarcations (e.g., industrial or craft trade unions, blue-collar, white-collar, or general trade unions, and political or religious affiliations of trade unions), and the degree of trade union organisation impact on the role and influence of trade unions.

The national systems for employee representation and influence differ. In single-channel systems, employee influence is channelled only through trade unions. In Sweden, for instance, trade unions both negotiate and

conclude collective agreements on wages and other terms and conditions of employment at cross-sectoral, sectoral, and local level, and take part in information, consultation, and co-determination at workplace level. In dual-channel systems, e.g., in France, Germany, the Netherlands, and Poland, employee influence is channelled both through trade unions and works councils. France has witnessed a recent statutory reform of employee representation and works councils (Kahmann & Vincent, 2022), and in Poland, the impact and activities of works councils are limited (Czarzasty, 2022). In countries with well-established dual-channel systems of employee influence, like Germany and the Netherlands, the relation between trade unions and works councils at company-level can differ and be characterised either by collaboration or by competition and conflict. This, in turn, may impact on trade union activity and strength, and company-level collective bargaining (see further Chapter 6; Rosenbohm & Tros, 2023).

Multi-level legal framework of trade unions and decentralised collective bargaining

As EU member states, the countries subjected to study in this chapter are covered by a common international and EU/European legal framework, which interplay with national regulation on trade unions and collective bargaining.

At *international and European level*, a number of legal sources, including ILO Conventions No 87, 98, and 154 and the revised European Social Charter, entail a legal recognition of fundamental trade union rights, such as the freedom of association, right to collective bargaining, and right to collective action. According to the European Court of Human Rights, the freedom of association, as protected by Article 11 of the European Convention of Human Rights, also comprises the right to bargain collectively and the right to industrial action.[2] Furthermore, fundamental rights protection is provided by Article 28 of the EU Charter of Fundamental Rights on the right of collective bargaining and collective action.

In the EU, the European social dialogue, a collective route to legislation at EU level involving the European social partners, takes place at both cross-sectoral and sectoral level (cf. Articles 152 and 154–155 TFEU) (Welz, 2008; Marginson & Sisson, 2004). EU labour law clearly emphasises employee influence and aims for a partial harmonisation of regulation on

2 See, for example, the cases of *Demir and Baykara v Turkey*, judgement of 12 November 2008, and the case of *Enerji Yapi-Yol Sen v Turkey*, judgement of April 2009.

information, consultation, and employee participation. The fundamental right to information and consultation is afforded protection by Article 27 of the EU Charter of Fundamental Rights, and extensive regulation on this topic is found inter alia in the Directives on transfers of undertakings, collective redundancies, European Works Councils, and a general framework of information and consultation.[3]

The (2020/2041/EU) Directive on adequate minimum wages in the EU has implications for national labour law and industrial relations, and trade unions and company-level collective bargaining (COM (2020) 682 final). The aim of the Directive is to establish a framework for setting adequate levels of minimum wages, and access of workers to minimum-wage protection, in the form of wages set out by collective agreements or, where it exists, in the form of a statutory minimum wage. The Directive also includes provisions on measures to promote collective bargaining.[4]

In the EU law context, fundamental trade union rights and freedom of association, collective bargaining, and collective action have also been challenged. In the much-debated *Viking* and *Laval* cases,[5] the Court of Justice of the EU held that the exercise of the right to collective action constituted a restriction on the freedom of establishment and freedom to provide services, respectively, and needed to be justified.

Fundamental trade union rights and collective bargaining can also be challenged by "states of emergency," such as economic crises and pandemics. During the global financial crisis, many EU member states put crisis-related measures in place, and subsequently the "eurozone" and sovereign debt crisis resulted in far-reaching austerity measures and deregulatory labour law and industrial relations reforms in many member states. These developments, and the role played by the "Troika" (the European Commission, the European Central Bank, and the IMF) and bail-out packages, have been criticised, and legally challenged at several levels, in national constitutional courts, in the Court of Justice, and before international human rights bodies, such as the ILO and the Council of Europe (Deakin & Koukiadaki, 2013; Kilpatrick, 2014).

3 Directives 2001/23/EC, 98/59/EC, 2009/38/EC, and 2002/14/EC.

4 The Directive includes guarantees for national systems of industrial relations built on autonomous collective bargaining (cf. Article 1.1.–1.3.). Still, the proposal has been strongly and jointly opposed by, for example, the Swedish social partners, who see it as posing a fundamental threat to the Swedish autonomous collective-bargaining system and key principles of wage formation and mechanisms for wage-setting. In October 2022 the Directive (2022/2041/EU) was adopted.

5 See Case C-438/05 *Viking* and Case C-341/05 *Laval*.

The COVID-19 pandemic has challenged the foundations of EU integration, and principles of human rights, democracy, solidarity, and free movement, and also resulted in economic crisis and urgent tasks for labour markets and social welfare systems. At the same time, in several member states, collective bargaining between social partners has played an important role in handling the pandemic. In Sweden, for example, quick and flexible adaptations to national, sectoral collective agreements were made, thousands of local collective agreements on short-time work were concluded, and crisis management agreements were put in place in the public healthcare sector (Rönnmar & Iossa, 2022; ILO, 2022: 139 ff.).

At *national level*, key issues related to trade unions, collective bargaining, and employee influence are regulated by a multitude of legal sources, including constitution, legislation, collective bargaining, and case law, depending on the characteristics of the labour law and industrial relations system. This legal framework is of great importance for trade union activities and strength, and company-level collective bargaining.

Regulation on trade unions includes issues of freedom of association, formation, and representativeness of trade unions, and internal affairs of trade unions. The representativeness of trade unions can be the subject of statutory regulation, as in France (Kahmann & Vincent, 2022). Instead, in Sweden, there are minimal formal requirements for forming a trade union, and recognition of trade unions is automatic. There are no statutory or case law-based procedures or criteria for determining the representativity of trade unions. All trade unions enjoy the same basic statutory rights to freedom of association, general negotiation, collective bargaining, and collective action, and further rights are afforded to "established trade unions," i.e. trade unions that are currently or customarily bound by a collective agreement (Rönnmar & Iossa, 2022). Furthermore, regulation on rights to time-off, training, and practical facilities for trade union representatives is important support for trade union activities.

Regulation on collective bargaining includes the right to – and sometimes obligation of – collective bargaining, and provisions on actors, processes, and outcomes of collective bargaining. The definition and legal effects of collective agreements are key and vary between the countries subjected to study. In Germany and Sweden, for example, collective agreements are legally binding, both for the contracting parties and for their members. A collective agreement has both a normative and mandatory effect. In Sweden, an employer bound by a collective agreement is obligated to apply this agreement to all employees, irrespective of trade union membership. Furthermore, unless otherwise provided for by the collective agreement,

employers and employees being bound by the agreement may not deviate from it by way of an individual employment contract. In Germany, deviations from the collective agreements are permissible if they are favourable to the employee (Haipeter & Rosenbohm, 2022; Rönnmar & Iossa, 2022). Many sector agreements in the Netherlands are "minimum agreements," which allow for deviations to the benefit of employees but without related bargaining rights for trade unions at the company level (Jansen & Tros, 2022). In contrast, in Ireland, a collective agreement is not legally binding (Paolucci et al., 2022). Systems for extension of collective agreements are established by way of statutory regulation in, for example, France, the Netherlands, and Germany.

The legal scope for company-level collective bargaining and its size, as well as the relation between collective agreements at different levels, is of key importance for the development of decentralised collective bargaining and the role and activities of trade unions at company-level in this context. The relation between collective agreements and other workplace agreements are determined by way of statute, collective bargaining, or case law on, for example, principles on the binding effect of the collective agreement, favourability, opening clauses, and derogations.

Regulation on employee influence includes rights to information, consultation, and co-determination, and the interplay between EU and national law. The content of the regulation also differs depending on the single- or dual-channel system of employee representation in place, and the functions and activities of trade unions and works councils, respectively.

Trade union coordination and social partnership

This section deals with issues of trade union coordination and social partnership in the context of increasingly decentralised (and in some cases like Poland, even disintegrating) collective bargaining. In this context, trade unions' mobilisation of associational and institutional power resources is of particular importance. The discussion focusses on developments in Ireland, France, Germany, Poland, and Sweden.

Trade union strategies towards collective bargaining vary, depending on the institutional context of the industrial relations system at the national level and sectoral specifics at the industry level. As a result, there are different approaches to coordination and social partnership. This is also conditioned by state policies and attitudes of employers.

In the case of Ireland and Poland, two countries with a pluralist type of industrial relations system (even though one belongs to the Anglo-Irish system, and the other to the Eastern European one), collective bargaining is substantially decentralised, and confined to the company-level with single-employer collective agreements dominating. Absence of sectoral (industry-level/multi-employer) bargaining has been compensated by the presence of tripartite institutions engaged in social dialogue, although its trajectories have differed substantially.

In Ireland the social partnership system, involving the state, central-level business associations, and the Irish Trade Union Congress was established with the conclusion of the Programme for National Recovery in 1987. The system, based on a principle of a trade-off between wage and tax moderation, survived for twenty years but collapsed following the 2008 crisis. The collapse of social partnership appears to be a pivotal point for Irish industrial relations. In the post-crisis years, "the Irish Congress of Trade Unions and the Irish Business and Employers' Confederation agreed a 'protocol' to guide collective bargaining in private and commercial state-owned firms that prioritised job retention, competitiveness, and orderly dispute resolution" (Paolucci et al., 2022).

In Poland, tripartite institutions were established in the 1990s as a part of the *aquis* in course of preparations for EU membership (Vaughan-Whitehead, 2000) but their development was flawed by subsequent crises (leading to a de facto demise of the central tripartite body in 2013, re-established in 2015) and persistent internal imbalance of power (weak social partners versus dominant government), a phenomenon labelled "illusory corporatism" (Ost, 2011). The only substantive prerogative of tripartite bodies through which trade unions can exercise wage moderation are national minimum wage negotiations, yet since the adoption of the Minimum Wage Act of 2003 they have rarely succeeded.

Besides certain similarities, there are substantial differences between the two countries. While in Poland there is no bargaining coordination, either vertically or horizontally, it is present and quite vibrant in Ireland. Coordination in Poland is arguably hindered by the advanced pluralisation (three national-level confederations with various political leanings), decentralisation, and fragmentation of trade union movement, while in Ireland trade union federations like SIPTU (pharmaceutical sector), Madate (retail sector), and FSU (financial sector), "[i]n the absence of centralised collective bargaining…resorted to their own organisational resources to empower shop stewards and revitalise their company-level representation structures" (Paolucci et al., 2022: 70). Vertical coordination in the private sector is

informal, yet relevant. Horizontal coordination is observed, albeit not in all sectors. It is, for example, non-existent in the food processing industry. In the dynamic perspective, it seems that following the demise of the social partnership system, Ireland has moved away from the neo-corporatist paradigm (although the Irish model, even in its prime, received criticism for its ambiguous character, and was called "neoliberal corporatism", see Boucher & Collins, 2003) towards a self-regulating system, which encourages comparisons with Sweden.

Sweden epitomises the Nordic system, and yet shares certain similarities with Germany, through a strong tradition of corporatism, which sets them the apart from the superficial neo-corporatist arrangements in Ireland and Poland. Thus, absence of tripartism in Sweden can be explained by a robust tradition of autonomous (bipartite) regulation of the labour market and industrial relations, with little interference by the state. This is reflected in the strategies of trade unions, which are focused on negotiating with employers at sectoral level but leave room for "organised decentralisation" via successful negotiation and practical implementation of local collective agreements. Extensive employee representation and information, consultation, and co-determination at local level are also of great importance (Rönnmar & Iossa, 2022). In Swedish case studies from the manufacturing and retail sectors, the white-collar trade union Unionen emphasises two important strategic choices made in the mid-1990s: to strive for national, sectoral collective agreements with substantive regulation on terms and conditions of employment, and to prioritise collective bargaining before legislation. The blue-collar trade union IF Metall emphasises the importance of creating fruitful conditions for local collective bargaining and setting obligatory minimum standards, and using fallback clauses to safeguard the level of wages and terms and conditions of employment and counteract potential inequality in bargaining power (Rönnmar & Iossa, 2022). As for coordination, a meaningful illustration of cross-sectoral coordination is provided by the formation of the Swedish Unions within Industry (*Facken inom Industrin*) by blue-collar and white-collar/professional–university graduate trade unions in the private industry sector in 1996 (Rönnmar & Iossa, 2022). Swedish trade unions perceive the two dimensions of collective bargaining (national, sectoral, and local) as complementary. Furthermore, the Swedish cross-sectoral, social-partner agreement on security, transition, and employment protection, which was concluded in 2020 and 2021, and also resulted in legislative reforms, can be seen as a strengthening of social partnership and autonomous collective bargaining (Rönnmar & Iossa, 2022).

While sharing some characteristics with Sweden, in terms of tripartism being largely missing from the national system of industrial relations (arguably due to the federal state structure where locus of control is mainly laid at the level of a constituent state, i.e., Land), Germany presents a case of a dual-channel system. Employees are indeed represented by both representative channels of trade unions and works councils, but the main purpose and focus of trade unions is collective bargaining at sector and (centralised) company level, while it is the works councils that operate at workplace level. Collective bargaining and workplace co-determination involve different actors on the employee side, and constitute two levels of labour regulation (see also Chapter 6; Rosenbohm & Tros, 2023). This is a key factor, determining the strategies of trade unions. Trade unions, on the one hand, retain a monopolistic position in collective bargaining, while works councils, on the other hand, are responsible for the implementation of collective agreements at the workplace level. Thus, the two types of bodies ought to cooperate. Facing decentralisation of collective bargaining, trade unions have chosen to get involved in the process rather than to stay out of it, reasoning that organised decentralisation is better than an uncontrolled ("wild") one. As a result, they have engaged in number of endeavours in partnership with works councils, the meaningful example of which is derogation from the sectoral agreement in the metalworking industry, where the works council and IG Metall acted together at company level in implementing the agreement derogating from the industry-level agreement (Haipeter & Rosenbohm, 2022). German unions have also been forced to respond to the employers' strategy of opting-out of collective bargaining by creating a special membership status of employer associations (OT – *ohne Tarifbindung*). The trade unions' strategic responses involve primarily union organising and new forms of member participation (Haipeter & Rosenbohm, 2022).

France represents a specific variation of the Continental European system, due to a long tradition of state involvement in industrial relations that can be traced back to the dirigisme paradigm in public policy (see also Chapter 5; Muñoz Ruiz et al., 2023). As a result, the national system of industrial relations in France is often labelled statist/*étatist*. This played a decisive role in promoting collective bargaining and sustaining it at industry-level with the "favourability principle" playing a major part. Tripartism has been present in France since the early post-war years. With one of the lowest density rates in the EU, French trade unions' legitimacy is largely facilitated by their bargaining activities. Since 2017, coordination of bargaining between

levels is no longer based on the "favourability principle," but rather on the complementarities of bargained topics (Kahmann & Vincent, 2022). As exemplified by the electrical sector, the "role of the industry federation in company level bargaining may vary to some extent from one trade union confederation to another, but the general picture is that of a loose coupling between union actors at both levels" (Kahmann & Vincent, 2022: 31). The picture is similar for the metal and retail sector. Inter-union coordination, given the pluralisation of union movement, is weak but may vary contextually (at company level).

Trade union membership, organising, and participation

Recruiting members, developing them into new activists, and encouraging participation at different levels are at the heart of trade unions' associational power. This section analyses the role of trade union membership, organising and participation in the context of decentralised collective bargaining in a cross-national perspective. It focuses on the evolution of union density and the renewal of union approaches to collective bargaining.

Cross-country differences in trade union membership

Despite cross-country differences in meaning and significance of union membership, a common rule applies: the likelihood of successful worker representation increases with the degree of organisation of workers (Schmalz & Dörre, 2014). To measure and compare workers' associational power, union membership, and, in particular, membership density is an important, yet imperfect, indicator.

Table 7.1. presents trade union density for the eight countries under study. Variation is considerable. Union density reaches from 10.8% in France to 65.2% in Sweden. While density has been on the decline almost everywhere in Europe since the 1980s, its rate differs significantly across countries. It is strongest in Ireland and Germany, where it has more than halved since 1980. Spain is the only country in the panel data in which density has remained stable, albeit at a low 12.5%. It remains highest in Sweden at 65.2%. Despite declining union density, collective bargaining structures have remained largely in place in continental (Western) Europe, albeit at the price of introducing considerable flexibility. Except for Ireland, Germany, and Poland, coverage rates have resisted decline and remained high over the last two decades (Table 7.1.).

Table 7.1. Trade union density and bargaining coverage in eight EU-countries

	Union density		Bargaining coverage
	1980	Most recent	Most recent
France	18.6	10.8	98
Germany	34.9	16.3	54
Ireland	57.1	26.2	34
Italy	49.6	32.5	100
Netherlands	34.8	15.4	75.6
Poland	–	13.4	13.4
Spain	13.3	12.5	80.1
Sweden	78.1	65.2	87.7

Source: OECD/AIAS/ICTWSS database, based on national sources (Visser, 2021).

It is noteworthy that membership decline has been uneven also across sectors, occupations, and companies. In Germany, for example, the automotive industry managed to keep union density at high levels of over 50%, whereas in retail it strongly declined after several well-organised chains went bankrupt. Membership is still significant in the privatised postal, telecommunication, and transport services, but unions fail to reproduce this pattern amongst new market competitors (Dribbusch & Birke, 2019). The increase in the proportion of women in union membership has not been sufficient to offset the effects of the loss of male members in terms of density.

Most analyses of union density have focussed on economic factors such as the level of (un)employment or movements in prices and wages (see Hyman & McCormick, 2013). However, such approaches fail to explain the often counter-cyclical trends in Northern Europe that can be best explained by the unions' key role in the administration of unemployment benefits. Hence, institutional factors are also important, and many comparative analyses have indeed highlighted the legal framework and government policy as well as general support for union security as determinants of union density. Clegg (1976) insists on the significance of the specific industrial relations institutions, namely, the structure of collective bargaining. Membership density is high where the extent of bargaining – the proportion of workers in a plant, industry, or country covered by an agreement – is high. But, if there is membership decline, do union approaches to bargaining have a role in this? And, if these are a relevant factor, is it possible to adapt them and use them as an opportunity to revitalise unions and works councils, thereby potentially compensating for the loss of institutional and structural power resources in bargaining?

Trade unions' organisational responses to the decentralisation of collective bargaining

The discussion about the role of membership and activism in a changing context for collective bargaining first came to the fore in the 1990s when certain US unions saw the "organising model" as a response to persistent membership decline, contrasting it starkly with the dominant "servicing model" to collective bargaining (Voss & Sherman, 2000). In European trade unions, this debate was received selectively or did not filter through from academia (Thomas, 2016). Trade unions have generally hesitated to review their practices with regard to membership in the context of decentralised bargaining. Germany and Ireland are an exception to this rule in that they developed distinctive participative approaches.

Membership participation and organising: An uneven situation

Trade unions share an ethos of internal democracy that extends to collective bargaining. It supposes a bidirectional relationship between union negotiators and members. Ideally, union members participate in the formulation of claims, the ratification of draft agreements, and their follow-up. They may also participate in negotiation processes, be it through adjusting claims or industrial action. Beyond such an ethos, however, there is significant variation in trade union approaches to collective bargaining and democracy, between countries but also sectors and unions. Such variation highlights differences in social relationships between the constituent parts of the union (members, activists, lay officers, full-time officials). Müller et al. (2018), e.g., make an analytical distinction between managerial, professional, and participative relationships in bargaining.

Of these three ideal-types, only the "participative relationship" considers members as potentially active participants in collective bargaining alongside professional union staff and leaders. Participative relationships tend to be well represented in countries with a strong union tradition in collective bargaining (Müller et al., 2018: 650). However, despite the persistence of such traditions in Italy (Armaroli & Tomassetti, 2022), Sweden (Rönnmar & Iossa, 2022), or France (Kahmann & Vincent, 2022), membership participation and organising have not been prominent in redefining trade union strategies in relation to decentralised bargaining in any of these three countries.[6] To be

6 This is not to say that problematic evolutions in terms of membership and bargaining coordination cannot be identified. By negotiating alongside the workplace representation bodies, local (and sometimes national) Italian trade unions have maintained a degree of control over company

sure, such approaches are not easy to implement since they can question the union's traditional role in industrial relations (Rehder, 2008) and require the restructuring of organisational resources. Moreover, decentralised union democracy has been discussed as precluding overall strategic direction and potentially detrimental to union efficiency (see Hyman & McCormick, 2019). Maybe more fundamentally, unions may not feel an urgency to develop membership and activism as they see themselves in a situation of relative institutional security, be it in the form of high bargaining coverage or above-average union density.

Still, innovative approaches to membership and activism can be identified in Ireland and Germany, two countries that have been hit particularly hard by the transformation of collective bargaining. These approaches can be characterised as participative as they share an emphasis on strengthening the participation of membership throughout the different phases of the decentralised bargaining process and rely on robust feedback mechanisms between members, activists and union leaders. However, unlike more "radical," bottom-up approaches to organising, union staff retains the leading role in coordinating action between levels and actors.

The remainder of this section focuses on these approaches. Both converge in that they conceive the decentralisation of collective bargaining as an opportunity for strengthening union and works council vitality at company level. Yet, the rationale underlying the decision to develop such an approach varies, reflecting profound differences in collective bargaining context. In Germany, IG Metall promotes extended membership participation to assure, first and foremost, the quality and legitimacy of derogatory deals with management. In Ireland, SIPTU's efforts to reinforce membership participation in company bargaining represent a response to the breakdown of national social partnership and a condition for establishing pattern bargaining.

IG Metall: Assuring the quality of derogatory deals

In the German metalworking and electrical industry, the decentralisation of collective bargaining mainly involves derogations from regional sectoral

bargaining. The lack of bargaining depth at this level as well as increased competition with 'outsider' unions may however be perceived as a problem (Armaroli & Tomassetti, 2022). In large French business groups, company union delegates enjoy much autonomy from their union, resulting in low levels of union information and control over company bargaining. Activism and membership are often limited to elected worker representatives, feeding into the much-observed poverty of company bargaining (Kahmann & Vincent, 2022). In Sweden, unions largely oversee what is negotiated at company level. Union density stands at about 65%, but there are signs that the weakening of local union clubs entails problems for the pursuit of company bargaining (Rönnmar & Iossa, 2022).

agreements. Already in the late 1990s, IG Metall, Germany's largest industrial union with 2.2 million members, began experimenting with increased membership participation in local negotiations with management over deviation (Turner, 2009). As derogation can entail a lowering of terms and conditions, at least temporarily, the core idea of the new approach is that members would be more receptive to such an outcome if they were involved in the process.

Three forms of participation characterise IG Metall's approach to negotiating derogations (Haipeter & Rosenbohm, 2022): ongoing information of trade union members through meetings during negotiations; member participation in company-level union bargaining committees; and, crucially, votes by members on whether to start negotiations and whether to accept a negotiated outcome. Experience has shown that members who are involved are much more likely agree with the outcome of the process. There has also been a further, and largely unexpected, effect, however. In many cases, the union has been able to recruit new members as employees have wanted to participate and have a voice (Haipeter, 2010). Given these unexpected results, in 2006 the union's district organisation in North Rhine-Westphalia demanded that certain benefits should be available for union members only.

In retrospect, experiences with derogations were the starting point for a "member-oriented offensive strategy" that IG Metall developed in the early 2010s (Haipeter & Rosenbohm, 2022). This involved tying the budgets of IG Metall's organisational units to income from membership dues, underpinned by annual operational objectives and target membership figures. Member orientation thus became a cross-sectional strategy and a benchmark for measuring success across the full spectrum of the union's activities, a process in which the experiences of negotiating derogations played a decisive role (Hassel & Schroeder, 2018). This strategy can boast some success. Unlike most other unions affiliated to DGB (*Deutscher Gewerkschaftsbund*), IG Metall has consolidated its membership levels over the last decade.

SIPTU: Rebuilding bargaining strength from below

Since the collapse of national social partnership in 2009, the main levels at which collective bargaining takes place in Ireland are the company and the plant levels. The breakdown of centralised bargaining triggered SIPTU (Services Industrial, Professional and Technical Union; general union), Ireland's largest affiliate to the ITUC (Irish Trade Union Congress) with 180,000 members, to strategically target strongly unionised companies in commercially buoyant export sectors, such as the pharmaceuticals, chemicals, and medical sectors. A main objective of the renewed approach to collective bargaining was the coordination of the bargaining system "from

below" (Paolucci et al., 2022). It was intended that the pay deals reached in strongly unionised firms in these sectors would set the trend for the restoration of collective bargaining on pay rises after a period of widely pervasive concession bargaining.

The participation of union members in decentralised bargaining is key to SIPTU's strategy (Paolucci et al., 2022). Targeting companies characterised by favourable conditions, both in terms of workers' structural power and established union presence, facilitates officials' work towards re-engaging union members at the workplace level. Meetings with members are organised to discuss issues of concern and shape the bargaining agenda. These are followed by regular surveys to assess workers' priorities over time. In some rare instances, small campaigns, involving overtime bans and work-to-rules – whereby workers refused to give their input into companies' teams and structures – are organised. Meanwhile, SIPTU used its internal training structures to prepare sector-level officials and shop stewards for company-level bargaining by enhancing their negotiating skills. To assure coordination between companies, union officials, each specialised in a specific company, collaborate daily, primarily by sharing information on the status of pay talks in relevant workplaces.

At workplace level, the renewed approach to bargaining has led to rebuilding organisation and representation at the firm level and the revitalisation of membership participation after 22 years of centralised tripartite bargaining (Paolucci et al., 2022). These days, all major Irish unions soon have accepted the return to decentralised pay bargaining as an opportunity to reconnect with members and to demonstrate unions' effectiveness in gaining pay rises.

Company-level trade union practices, and processes and outcomes of decentralised collective bargaining: Examples from France, Ireland, and Germany

This section analyses how, at company level, trade unions and works councils deal with the evolving environment of collective bargaining. What practices can be observed? What power resources do they rely on and combine? How do they impact bargaining outcomes and processes at this level? To answer these questions, this section pursues a cross-industry and cross-country analysis of three companies, building on the conceptual tools and analyses developed in the preceding sections. To capture the variety of company bargaining, it was decided to vary sector (pharmaceutical and manufacturing industries) as well as type of market economies: the three company

cases belong to the liberal (Ireland), coordinated (Germany), and (post-) statist (France) variants of capitalism. In all of them, company bargaining is significant and occurs either constantly or irregularly. The respective material is taken from Paolucci et al. (2022), Haipeter and Rosenbohm (2022) as well as Kahmann and Vincent (2022). The main aim of this section is to demonstrate the usefulness of a power resources-based approach as a research heuristic in comparative studies.

Electric: The weight of statutory prescriptions

Electric is a French multinational that is a global leader in the provision of electrical energy and automation solutions for private homes, buildings, and industry. It employs 130,000 people worldwide and 15,500 in France. Its internal bargaining structure is complex. Other than at group-level, bargaining also takes place at intermediate (individual subsidiaries or their regrouping) and local (plant) levels. Bargaining activity is intense. Between 2019 and 2021, some 160 company agreements were signed. There is also the sectoral agreement in manufacturing, but its significance is limited for management and company union delegates, except for the sector's generally binding job classification scheme. At European level, there is a framework agreement on the anticipation of organisational change.

Reflecting the traditionally strong role of interventionism in French industrial relations, the (multi-) annual statutory obligations for collective bargaining channel and set the pace for trade union activity at Electric. They cover a wide array of topics such as wages, equal opportunities as well as workforce management and career trajectories. This requires specialist negotiating skills. The five representative unions at Electric have supported the development of company-specific resources to deal with bargaining imperatives. The agreement on union rights goes beyond the legal requirements in terms of time-off, number of union representatives, and union budget. Electric management also provides specific training for union negotiators, including a private business school degree co-designed by the company. The wealth of company specific resources contrasts with those of the sectoral unions. Their ties with the unions at Electric are weak and there is very little coordination between company and sectoral bargaining.

Unions at Electric – and to some extent also management – find it difficult to take some distance from the bargaining agenda determined by public policy. Considerations of compliance tend to dominate over the search for company-specific solutions. The group level agreement on strategic workforce planning (Gestion prévisionnelle de l'emploi et des compétences; GPEC) is

a case in point. Initially adopted by the HRM department of Electric as an ambitious social partner tool to prevent social plans, its development has progressively come to a standstill since the statutory obligation in 2005 to negotiate such agreements. The tendency towards formalism in bargaining also links to the scarcity of unions' associational power resources at Electric. Data on union membership are unavailable, but interviewees believe that it has been declining over time. Activism tends to be restricted to members who hold a representative mandate. Industrial action is limited to plant closures and the partial centralisation of collective bargaining at group level, endorsed by the unions, has further contributed to pacifying industrial relations.

Bargaining processes and outcomes appear satisfying to the unions at Electric. Terms and conditions are much better than those fixed by the sectoral agreement, even if the unions underline a tendency towards the individualisation of wage rises. Workers' favourable structural power resources are key to management's longstanding investment in collective bargaining: most workers at Electric are highly qualified engineers and managerial staff (cadres) who operate in high autonomy working environments. As the labour market for such personnel is tight and organisational restructuring is frequent, management uses collective bargaining to guarantee worker satisfaction and social peace.

PharmCo: Regaining local bargaining power and skills

The mobilisation of power resources in decentralised bargaining reveals quite distinct patterns at PharmCo site in Ireland. It produces food chemicals and comprises three plants. The diversified, and vertically integrated, organisational structure has sheltered this PharmCo facility from the threat of relocation and contributed to an increase of its workforce. The site employs over 600 workers.

The company recognises trade unions and meaningful collective bargaining is in place, despite the lack of strong institutional support mechanisms. Most unionised workers in the production plants– around 260 laboratory and quality control workers, supervisors, operatives, and warehouse workers – are represented by SIPTU (Services Industrial, Professional and Technical Union), while 50 craft workers are Connect members. Union density amounts to over 50%, well beyond the standards at *Electric*. Up to 2016, pay deals at PharmCo were comparable to median pay rises in the sector. However, in the case of the agreement negotiated in 2018, the 3.6% pay agreement negotiated by unions at PharmCo significantly exceeded the 2.5% median rise in the wider chemicals, pharmaceutical and medical devices sector – a trend not

repeated in the 2020 pay agreement. Due to the company's remarkable financial performance, a main challenge faced by the union is to temper members' expectations regarding pay increases. Given these difficulties, the union has sought to improve the overall reward package by negotiating new items, such as extra paid holidays and additional health insurance benefits.

SIPTU's bargaining tactics at the site are strongly marked by the strategy developed by SIPTU at national level as a reaction to the loss of institutional power resources linked to the collapse of the social partnership. It evolves around re-engaging union members at the workplace, assessing workers' bargaining priorities as well as rebuilding local negotiating skills. The benefits of such an effort to strengthen associational power resources are apparent at PharmCo, where a formal workplace representation structure called the "Committee" has been established. It comprises 10 shop stewards, each representing a specific division of the company. It is led by a chairman, who is elected by the members, and by a sector-level trade union official, external to the company, who is directly employed by SIPTU. The Committee is the locus for all the discussions that are relevant to collective bargaining. While the Committee defines a shared bargaining agenda, considering the view of all the members previously surveyed, only the Chairman and the Sectoral Official sit at the actual bargaining table. The role of local negotiators has dramatically changed as bargaining activity intensified and shop stewards directly regulate the terms and conditions of employment. To strengthen shop stewards' bargaining power, SIPTU has also invested significant resources in developing their negotiating skills through training.

Given the significance of the company in terms of union density, size, and profitability, SIPTU considers PharmCo a pattern setter in collective bargaining. Coordination with wider sectoral bargaining activities is strong. The Chairman and the union official at PharmCo rely on the SIPTU sector-specific pay target that is then communicated to all union members, along with other potential issues for collective bargaining. Meanwhile, the Chairman and the sectoral official evaluate the financial position of the company. If PharmCo rejects SIPTU's pay proposal, it must bring evidence of its inability to afford the pay increase. If the company refuses to provide evidence, the LC (Labour Court) might get involved. Its recommendations are not binding, but PharmCo has generally accepted them.

Lights: A sectoral agreement that constitutes the frame for derogation

Lights is a medium-sized company with about 5,500 employees worldwide, of which around 1,500 are employed at the German headquarters. Out of

these, about 800 are blue-collar production workers, the remaining workers are white-collar employees working in administration, development, and sales. The company produces luminaires and offers system solutions for lighting. It has both industrial and private customers and is represented by sales subsidiaries almost worldwide. Unlike the French and Irish cases, decentralised bargaining is not the rule at Lights, but limited to instances of derogation from the sectoral agreement to which the company is bound via its membership in the employer association Gesamtmetall.

In late 2019, Lights management approached the works council and IG Metall with the request to negotiate a derogation agreement. The demand occurred against the background of the company's struggle with the transformation of the lighting industry. The technological conversion to LED luminaires had resulted in specific long-term challenges: a high volume of investment that delivered only weak returns over a sustained period, an increased need for additional skills, and the digitalisation of production and products. Unlike instances of "wild decentralisation," management's request was formulated in the institutional framework of the "Pforzheim agreement" that regulates derogations from industry agreements in the metalworking and electrical industries. This collective agreement guarantees workers representatives information rights vis-à-vis management and the place of the union as a bargaining partner. Worker representatives checked the company's situation and realised that management's request was not without foundation. They believed that the associational power resources in the company were sufficient to justify the launch of a bargaining process that would be meaningful for workers, too.

Building on IG Metall's guidelines on worker participation and organising in bargaining over derogation, the union and the works council then invited the union members to vote on whether negotiations should be initiated. By underlining their open-ended nature (previous derogation negotiations had come to nothing on two occasions), they gained the support of well over 90% for opening negotiations. To start with, worker representatives formed a collective bargaining committee. This body then appointed a smaller negotiating committee, led by IG Metall but also including six works councillors from different parts of the company. Prior to this, the committee and the local union administration had produced an employee questionnaire to gauge the workforce's bargaining priorities.

Negotiation over derogation took place between the negotiating committee, Lights management as well as a representative of the regional employers' association. In line with IG Metall's recommendations, workers' access to information played a strategic role in the negotiation process, although it was severely hampered by the pandemic. The union and works council used

digital communication channels to disseminate information on the progress of negotiations. As production workers do not have access to digital information at the workplace, worker representatives also placed emphasis on providing information via leaflets and letters to members. In the end, union members voted in favour of the agreement by a clear majority. Its duration is limited to five years. It exchanges the convergence of working-time between different groups of workers and the postponement of agreed industry-level pay increases against, amongst other things, investment commitments, an apprentice quota, the waiver of compulsory redundancies, the participation of the works council in make-or-buy decisions as well as the establishment of a joint task force supervising the implementation of the agreement.

Case comparison

In all three company cases, decentralised bargaining occurs in the context of the change and weakening of bargaining structures at sectoral level. It is either limited to incidences of derogation (Lights) or a continuous and long-standing practice (Electric; PharmCo).

In all three cases, its outcomes are judged satisfying by worker representatives. At PharmCo and Electric, the relative scarcity of qualified staff comforts the workforce's structural power and accounts for management's view on collective bargaining as a tool to improve the company's attractiveness as an employer and to guarantee social peace and productivity. At PharmCo, the combination of structural power with the mobilisation of associational power resources allows for stronger dynamics in bargaining and the positioning of the site as a pattern setter in collective bargaining. Enhancing union negotiators' skills, membership participation and cross-company coordination by the union are key to this. The relative wealth of institutional resources at Electric indicates that the mobilisation of equivalent associational power was not necessary to achieve comparable outcomes in terms of bargaining satisfaction. The derogation agreement at Lights suggests that the works council and the union partly made up for the workforce's lack of structural power by effectively threatening management to refuse one-sided concessions. Similar to SIPTU, information, membership participation, and organising were crucial for this relative success.

Bargaining processes, on the other hand, vary considerably between the cases. Differences in institutional power resources seem to play a major role in this. Decentralised bargaining at Electric is strongly marked by the prescriptions of public authorities and therefore tends towards formalism. This contrasts notably with bargaining processes at PharmCo which are more

contingent due to the absence of such institutional prescriptions. At Lights, the bargaining process is to some extent framed by the provisions contained in the sectoral framework agreement on derogation, while remaining open about the issues which are addressed. In both the Irish and the German cases, union efforts to strengthen their organisational power levers in decentralised bargaining have entailed the strengthening and streamlining of internal deliberative processes in company bargaining.

Concluding remarks

This chapter analyses the role of trade unions in decentralised collective bargaining, and trade union participation in and influence on the processes and outcomes of collective bargaining at company level. The analysis is based on developments in eight EU member states and highlights a multitude of similarities and differences at national, sectoral, and company levels regarding trade union access to and mobilisation of structural, associational, and institutional power resources in the context of collective bargaining decentralisation. The collective bargaining focus on the company level, including specific strategies and practices in the analysed company case studies, reveals current and future challenges as well as potential for innovation in decentralised collective bargaining. This study and analysis is exploratory and does not aim at building, developing, or testing theory. This chapter contributes to the research discourse on decentralised collective bargaining in a novel way through its operationalisation of the power resources approach to company-level collective bargaining.

The analysis of the *institutional and legal framework of trade unions and decentralised collective bargaining* highlights that *international and EU* labour law provide a strong legal recognition for fundamental trade union rights, including freedom of association and the right to collective bargaining. However, trade unions' access and possibility to mobilise institutional power resources, not least in company-level collective bargaining, depend to a large extent on the *national* institutional and legal context. Thus, the characteristics of the national labour law and industrial relations system, which vary greatly among the countries studied, create institutional power resources of various strength, that the trade unions can – and do – mobilise in order to influence the processes and outcomes of company-level collective bargaining. Key aspects in this regard are, for example, the interplay between EU law and national labour law, the balance between legislation and collective bargaining, the degree of state influence or industrial relations

voluntarism, the forms of employee representation and influence, and the legal regulation of trade unions and collective bargaining.

Trade union coordination and social partnership are important in collective bargaining. Trade unions' capacity to coordinate across levels of collective bargaining and establish social partnership relations with employers are related to their successful mobilisation of institutional and associational power resources. These power resources partly stem from the characteristics and traditions of national industrial relations systems. The analysis shows that trade union coordination and social partnership (in an autonomous, bipartite form) are frequent in, for example, Germany and Sweden, where the institutional and legal frameworks for industrial relations enable trade unions to achieve the objective to coordinate and establish partnerships. The result is trade unions' influence on the processes and outcomes of company-level collective bargaining. In national industrial relations contexts marked by disorganised decentralisation and lower degrees of coordination (or lack thereof), for example, in Ireland and Poland, trade unions can mobilise associational and structural power resources to achieve a certain degree of coordination and social partnership and compensate for a lack of institutional and legal support. In national industrial relations contexts characterised by state intervention, for example, in France, trade unions can rely on relatively strong institutional resources that may compensate for a lack in structural and associational power to achieve extensive coverage and effective enforcement of collective bargaining, wherefore trade union strategies and activities of coordination and social partnership are less developed.

The analysis of *trade union membership, organising, and participation* illustrates that despite the overall decline in trade union density and the increasing importance of guaranteeing the coordination of collective bargaining across units and levels, relatively few national trade unions have developed membership-focussed approaches as a response to the decentralisation of collective bargaining. Such limited engagement has many sources, one of them being perceived institutional security in the form of high trade union density, extensive collective bargaining coverage together with a strong legal framework. Conversely, incidences of innovation in membership approaches have occurred where the unions' decline of institutional power has been pronounced, resulting from the erosion of centralised coordination in collective bargaining. Where trade unions took on the challenge of organisational change, they conceived decentralisation as an opportunity to consolidate and even improve their power position. Evidence points to converging benefits in the form of renewed deliberative vitality, new members, and a reinforced coordination capacity.

The case-based discussion on *company-level trade union practices, processes and outcomes of decentralised collective bargaining* emphasises the importance of structural power resources for the outcomes of company bargaining, but also shows that institutional and associational power resources may complement the lack or presence of such structural power resources. Thus, it suggests a degree of interchangeability of structural, associational, and institutional power resources. It shows that the mobilisation of associational power in company bargaining, at least under otherwise favourable structural conditions, has the potential to offset the effects of a loss of institutional power in terms of social partnership regulation. In turn, evidence suggests that the relative abundance of institutional power resources at company-level may disincentivise the development of associational power, thereby hampering the unions' capacity of cross-company bargaining coordination.

Overall, trade unions are key actors in decentralised collective bargaining. Despite a strong European trend towards decentralised collective bargaining, sometimes in disorganised and fragmentised forms, the company case studies and the analysis show that trade unions have access to, and can mobilise, structural, associational, and institutional power resources. As a result, they can influence the processes of company-level collective bargaining and achieve quality outcomes.

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