

# **Labour and Environmental Sustainability**

**Comparative Report**

by

**Juan Escribano Gutiérrez**

in collaboration with

**Paolo Tomassetti**

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*A Green Mentality for Collective Bargaining*

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**Agreement – A Green Mentality for Collective Bargaining** investigates the role of social dialogue and collective bargaining in promoting sustainable development and the *Just Transition* to a low-carbon economy in six countries: France, Hungary, Italy, the Netherlands, Spain and the UK.

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## Executive Summary

*There is consensus that the separation between labour and the environment, as well as that between the legal disciplines that regulate both domains, is meaningless and outdated. Since business activities affect the health and the environment of workers and human beings, synergies between the two spheres have to be created. Yet there is still a long way to go in order to bring together labour and environmental regulation.*

*In all the selected countries (France, the Great Britain, Hungary, Italy, the Netherlands and Spain) the legal systems regulating salaried work, on the one hand, and the environment, on the other hand, remain disconnected, although no formal obstacles exist to their integration. With regard to the scope for collective bargaining to become a means to integrate both spheres, no legal restrictions apply in any of the framework considered, although explicit references to workers and employers (or their representatives) to bargain over environmental aspects are far less evident.*

*It is up to the social partners to promote environmental sustainability as a goal for collective bargaining or to continue with the traditional inertia that divides labour and environmental regulation. Despite research shows how the social partners, especially trade unions, are more and more willing to negotiate environmental aspects, the narrative on the trade-off between labour and the environment is still evident, especially in the Hungarian context. Collective agreements could take a leading role in driving the just transition towards a low-carbon economy, but in practice they do not regard this mission as a priority. Environmental clauses in collective agreements are still exceptional and lack momentum.*

*One explanation is that the legal mechanisms in place to limit the impact of business activity on the environment (i.e. environmental law) legitimize firms to consider environmental aspects as their own prerogative. For this reason, in some legal systems, employers tend to discuss environmental commitments outside collective bargaining, including them into corporate social responsibility (CSR) mechanisms. By doing so, the company avoids enforceability, limiting the effectiveness of the tools to regulate environmental issues.*

## 1. Introduction

Humanity is at a crossroads, with many risks arising from the current environmental crisis. Global climate change, caused by greenhouse gas emissions, is there for all to see. A rise of more than 1.5 degrees in the average global temperature will make climate change irreversible, so radical measures have to be adopted in order to reverse this trend.

It is no longer the case that energy and raw materials can be obtained cheaply. The global extraction of fossil fuels – a fundamental source of energy today – has reached its peak. It will become increasingly expensive to collect resources and continue with a production model based on cheap energy use. The planet has exceeded the load capacity of the waste generated by the production in which it has been in place for the last two centuries. Waste has become one of the most serious problems of our planet, thus it is essential to draw measures aimed at promoting recycling.

These circumstances obviously affect work. Labour itself is part of the socio-economic model contributing to the global environmental disaster. The juxtaposition of labour and the environment is socially constructed. Within the context of industrial capitalism, its narratives and the normative systems that legitimize it, workers and organized labour have their share of responsibility in accelerating or slowing the environmental effects of production. While many industrial activities are disappearing along with occupational and welfare opportunities for workers and local communities, new sectors are emerging and demand new jobs. Transitions from traditional sectors to the green ones have therefore to be managed.

Collective bargaining can play a key role in making the transition to a low carbon economy just and fair for workers and local communities. Collective bargaining can also function to strategically deconstruct the misleading contraposition between labour and the environment.

As the IPCC Special Report anticipates, rather than on climate change itself, efforts to meet CO<sub>2</sub> reduction targets and other requirements related to mitigating climate change will have significant impacts on all human dimensions and work. Among others, they will disrupt existing modes of energy generation, natural resource



extraction, production and service delivery, with major implications for sustainable development, livelihoods, and jobs<sup>1</sup>. While fossil fuel-dependent industries and communities will be most immediately affected, International Labour Organization (ILO) research suggests that inaction will also have, and is already having, massive consequences for a wide range of economic sectors and workers, since all jobs rely on a healthy and stable environment<sup>2</sup>.

The ILO sees the advancement of environmental sustainability as desirable for the world of work, and necessary for social justice, so long as it aligns with its decent work agenda and principles of social dialogue.<sup>3</sup> For this reason, the Paris Agreement<sup>4</sup> has recognized that decent work and ‘Just Transition’ – a process whereby de-carbonization and ecologically sustainable economies and renewable energy systems are pursued to minimize the associated impacts on workers and communities’ means of survival – must be integral components of any necessary shift.<sup>5</sup> Along with the adoption of the ILO Guidelines<sup>6</sup> (2015) and the Silesia Declaration on Solidarity and Just Transition<sup>7</sup> at the COP 24 (2018), the ILO Global Forum on Just Transition established in 2017 provides an international framework for the realization of these policy aspirations and commitments. Ultimately, however, operationalizing Just Transition at different (local, regional, national, global) levels is something that will require institutionalization. For locally appropriate solutions, institutionalization should be promoted through the wide consultation and participation of all those concerned (i.e. unions and workers). Ensuring the long-term sustainability of socio-ecological and economic interests necessitates that these mechanisms and processes be facilitated and continue after this just transition.

Against this background, this report aims to provide a cross-country synthesis of the national case studies carried out by a team of law researchers from six EU countries – i.e. Hungary, Spain, Italy, the Netherlands, France and Great Britain – in order to assess how and why, and the extent to which, industrial relations institutions have included environmental sustainability within their scope. The assumption is that collective bargaining is a potential driving force to promote the

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<sup>1</sup> Ibid.

<sup>2</sup> ILO, [Greening with Jobs – World Employment Social Outlook 2018](#), 2018.

<sup>3</sup> Ibid.

<sup>4</sup> UNITED NATIONS, [Paris Agreement](#), 2015, Preamble.

<sup>5</sup> [https://www.ilo.org/global/topics/green-jobs/publications/WCMS\\_617967/lang--en/index.htm](https://www.ilo.org/global/topics/green-jobs/publications/WCMS_617967/lang--en/index.htm)

<sup>6</sup> [Guidelines for a Just Transition towards Environmentally Sustainable Economies and Societies for All](#), ILO, 2015.

<sup>7</sup> [Solidarity and Just Transition Silesia Declaration](#), COP 24, Katowice, 2018.

transition towards a low-carbon economy. Its role would be important in areas such as new professional skills, job classifications, remuneration, occupational health and safety, welfare and collective transport, connections between gender and the environment, channels of workers' voice and representative institutions with knowledge of green issues and joint committees for monitoring and evaluation of environmental policies and standards.

The report provides a theoretical discussion on the labour and environmental nexus. A comparison between national literature reviews on labour and the environment is then supplied in the next section. Based on both the legal and empirical research on industrial relations institutions conducted in the selected countries, the report will assess the contribution of the social partners in promoting the just transition towards a low-carbon economy. A comparative analysis of the most recent social partners responses to the environmental crisis will follow. Finally, the report will assess how and why, and the extent to which, national collective bargaining systems are dealing with environmental aspects, or whether they are deferring the integration between labour and the environment to other legal instruments.

## 2. Theoretical discussion

In the framework of the capitalist mode of production, nature and labour are treated as pure commodities to be exploited with the aim of obtaining the maximum benefits for their private appropriation<sup>8</sup>. Private profit stands out among the rest of the productive factors – such as nature and workers – which are not considered as values in their own right. Thus it is not surprising that they compete with one another<sup>9</sup>.

The labour factor, simply conceived as a further cost to be optimized (i.e. reduced) to be implemented, regards nature itself as a competitor<sup>10</sup>. The extra costs of certain environmental protection measures – or even the direct protection of human health outside the company – can have a negative impact on employment and are therefore looked at skeptically by certain social sectors. It is not possible to analyze the relationship between labour and the environment regardless of the mode of production in which it takes place. More generally, “there is no greening of the economy without social control of investment: without ecologically sound decisions about what is produced and how it is produced. This poses a direct threat to the class power of the capitalists. Ecology, here too, is a matter of class struggle”<sup>11</sup>.

Both environmental protection and the quest for measures to eliminate labour exploitation must take place simultaneously and not seen as being in opposition. However, despite the clear connections between these two aspects, neither trade union movements nor labour laws have adequately addressed environmental protection. The most reasonable explanation for this lies in the fact that labour law does not deal with the regulation of the ways in which production is carried out, as it focuses on the contractual formalization that results from it. Yet in all the countries analyzed some scholars argue for the need to stop thinking that the environment falls outside labour law regulation.

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<sup>8</sup> K. POLANYI, *The great transformation*, Farrar & Rinehart, 1944, 291.

<sup>9</sup> F. FERNÁNDEZ BUEY, *Programas sindicales, intereses obreros y reivindicaciones ecologistas en la lucha por un mundo habitable*, in *Cuadernos de Relaciones Laborales*, 1992, n. 1, 221.

<sup>10</sup> L.R. KOHLER, *El medio ambiente y el mundo del trabajo: un concepto integral del desarrollo sostenible, el medio ambiente y el medio ambiente de trabajo*, in *Enciclopedia de salud y seguridad en el trabajo*, ILO, II-VI, 54, 2.

<sup>11</sup> See J. RIECHMANN, F. FERNÁNDEZ BUEY, *Trabajar sin destruir (Trabajadores, sindicatos y ecologismo)*, Ediciones Hoac, 1998.

Furthermore, and as has been pointed out above, the idea that environmental protection is an obstacle to creating more jobs – due to the need to comply with the requirements of environmental standards – has sometimes caused workers’ representatives to disregard environmental protection or ecological issues<sup>12</sup>. This way, a negative relationship is assumed between economic growth and ecology from the point of view of the capitalist economy. “According to capitalism, environmental investment is considered unproductive, because it does not usually generate commercial goods, which are the only ones producing welfare”<sup>13</sup>.

That is why, traditionally, workers’ representatives only incorporate in their claims measures that would improve the protection of workers within the company. However, it is clear that the effective protection of the internal environment will reduce the impact on the company’s external surrounding and, conversely, the protection of the external environment will lead to a consequent improvement in workers’ living and working conditions<sup>14</sup>. In the words of the International Confederation of Free Trade Unions, reported in its declaration of the United Nations Conference on the Environment in Stockholm (1972): “It is in the working environment that the conditions that will later have an impact on the external environment arise, this applies to different types of pollution, which are firstly a risk for the workforce working in industry, but which later emerge as pollution in the external environment”.

Without taking into consideration other factors of a political, ideological or social nature, it can be argued that one of the most evident consequences of distinguishing between internal and external environment is the absence – in the framework of trade union action within the company – of requirements for the business production process to reduce its ecological impact. On the contrary, trade union action and one of its most significant manifestations, i.e. collective bargaining, continue to refer to the ‘reductionist’ short-term business concept, which links conservation of the external environment to job destruction.

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<sup>12</sup> F. LA ROCA, I. LERMA, E. GARCÍA (eds.), *La participación de los trabajadores y trabajadoras en la gestión medioambiental de las empresas*, Editorial Germania, 1996.

<sup>13</sup> R. BERMEJO, *Equilibrio ecológico, crecimiento y empleo*, in F. LA ROCA, A. SÁNCHEZ (eds.), *Economía crítica. Trabajo y medioambiente*, Fundació d’estudis i iniciatives sociolaborals, Universitat de València, 1996, 207.

<sup>14</sup> M<sup>a</sup>.L. MARTÍN HERNÁNDEZ, R. SASTRE IBARRECHE, *Un nuevo espacio para la acción sindical: la defensa del medioambiente*, in *Revista de Derecho Social*, 2000, n. 6, 60.

## 2.1. Treadmill of Production and Just Transition: Two contrasting patterns?<sup>15</sup>

The Treadmill of Production (ToP) theory provides an excellent framework for all these assumptions. ToP was elaborated by environmental sociologist Allan Schnaiberg between the 1970s and 1980s to show how the post WWII growth model led to huge extraction of natural resources needed for the production of goods and services, as well as the new energy-intensive technologies that automation involves<sup>16</sup>. For Schnaiberg, Western capitalism runs on a treadmill, where the more resources for economic development are extracted, the more environmental degradation worsens. Ecological destruction is a by-product of ToP, but uncontrolled depletion of finite resources also makes further economic development difficult.

As a product of industrial capitalism, industrial relations institutions in advanced market economies contributed to speeding up ToP<sup>17</sup>. The contraposition between group interests mediated within the industrial relations system and the general interest in environmental sustainability rendered controversial unions' stance regarding environmental choices affecting jobs and income. With the aim of increasing the share of resources redistributed from capital to labour, unions in Western countries embraced the capitalistic mantra of growth, drawing away from the implications for the environment of increasing industrial production<sup>18</sup>. This dynamic is particularly accentuated when it comes to the business union model, under which the advancement of working standards is pursued regardless of socio-political conditions of those falling outside the scope of organized labour<sup>19</sup>.

Authors contesting these arguments maintain that industrial relations are not necessarily associated with ToP's acceleration<sup>20</sup>. Industrial relations institutions, in the US for example, contribute to slowing the treadmill in two (rather hackneyed) ways: collective action can limit growth, efficiency and automation; unions can explicitly integrate environmental sustainability in their programmes, building

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<sup>15</sup> This Section was written by Paolo Tomassetti.

<sup>16</sup> A. SCHNAIBERG, *The environment: From surplus to scarcity*, Oxford University Press, 1980.

<sup>17</sup> E. GOODSTEIN, *The trade-off myth: Fact and fiction about jobs and the environment*, Island Press, 1999; B. OBACH, *New labor: Slowing the Treadmill of Production?*, in *Organization & Environment*, 2004, vol. 17, n. 3, 337-354.

<sup>18</sup> K.A. GOULD, D.N. PELLOW, A. SCHNAIBERG, *Interrogating the Treadmill of Production: Everything you wanted to know about the Treadmill but were afraid to ask*, in *Organization & Environment*, 2004, vol. 17, n. 3, 296-316.

<sup>19</sup> P. TAFT, *On the origins of business unionism*, in *ILR Review*, 1963, vol. 17, n. 1, 20-38, 20.

<sup>20</sup> B. OBACH, *op. cit.*

alliances with environmental groups to make the protection of labour and the environment convergent. More radical justifications of industrial relations, however, show how ToP's assumptions are questionable at a deeper level.

There is growing consensus that at the root of any environmental crisis is a crisis of human hierarchies and equalities<sup>21</sup>. For example, Murray Bookchin argues: 'the very notion of the domination of nature by man stems from the very real domination of human by human'<sup>22</sup>. These critical views on the environmental crisis touch the essence of industrial relations theory. Regardless of whether unions and collective bargaining are seen as channels to actualize class struggle against capital's exploitation, or as institutions to reduce societal vulnerabilities and those inherent in the employment relationship, strong industrial relations prevent job vs. environment blackmail from happening.

Authentic participation and freedom to choose advanced by unions contrasts with the job vs. environment blackmail, which, as a typical form of societal vulnerability, leads workers and local communities to passive acceptance of occupational and income protection<sup>23</sup>, impairing their capacity to react to environmental stress<sup>24</sup>. As long as industrial relations institutions confront democratic deficits and subordination, the possibilities for the job vs. environment blackmail reduces. Where democratic deficits and dependency increase and labour vulnerabilities are exacerbated by occupational threats and other forms of subordination, workers and their representatives are inclined to accept unfair working conditions and business practices potentially dangerous to health and environment<sup>25</sup>.

Instead of being inherent in the relationship between labour and environment, therefore, the contraposition between industrial relations and environmental

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<sup>21</sup> A. GREAR, *Towards 'Climate Justice'? A critical reflection on legal subjectivity and climate injustice: Warning signals, patterned hierarchies, directions for future law and policy*, in *Journal of Human Rights and the Environment*, 2014, n. 5, special issue, 103-133.

<sup>22</sup> M. BOOKCHIN, *The ecology of freedom: The emergence and dissolution of hierarchy*, Cheshire Books, 1982, 1.

<sup>23</sup> P. HAMPTON, *Workers and Trade Unions for Climate Solidarity*, Routledge, 2015, 186; F. CAPRA, U. MATTEL, *The ecology of law: Toward a legal system in tune with nature and community*, Berrett-Koehler, 2015, 121.

<sup>24</sup> S. BARCA, E. LEONARDI, *Working-class ecology and union politics: a conceptual topology*, in *Globalizations*, 2018, vol. 15, n. 4, 487-503; M. TIRABOSCHI, *Prevenzione e gestione dei disastri naturali (e ambientali): sistemi di welfare, tutele del lavoro, relazioni industriali*, in *Diritto delle relazioni industriali*, 2014, vol. 24, n. 3, 573-605.

<sup>25</sup> L. MONTUSCHI, *Diritto alla salute e organizzazione del lavoro*, Franco Angeli, 1976.

sustainability is socially and legally constructed<sup>26</sup>, and it largely depends on institutional aspects, union power and economic constraint. In a market economy, the trade-off between labour and environment can arise, but can be strategically deconstructed through industrial relations strategies addressing and protecting both values, rather than accentuating the difference.

Schnaiberg was aware of this when he compared union policies in the US and Europe<sup>27</sup>. He observed that in line with the business union model<sup>28</sup>, American unions had fought primarily over the *share* and *size* (in terms of wages and fringe benefits) of surplus going to labour. This became evident in times of economic downturn: during the US fiscal crisis, organized labour ‘reversed itself, and sided once more with monopoly-capital owners/managers in calling for increased production to generate jobs and wages’<sup>29</sup>. In contrast, Western European experience in the postwar period was considerably different, as the labour movements exhibited ‘far more sustained political activity and consciousness-raising, leading to a more social democratic form of productive control in many periods and societies’<sup>30</sup>. The gap between US business unionism and the social-movement orientation of unions in Western Europe became even more accentuated in the 1960s and 1970s. Turner and Hurd<sup>31</sup>, for example, noted that far from developing a socio-ecological reform strategy for the future of industry as German unions have done starting from early 1970s, US labour leaders reacted to demands for environmental preservation in many cases solely as attacks on union jobs.

Beyond the business vs. social movement orientation, the possibilities for unions to embrace societal demands in defence of the environment depend on their capacity to resolve the conflict between members preferring increased material standards and those giving environmental issues higher priority<sup>32</sup>. In comparing the impact of the nuclear energy debate on Swedish and German unions, for example, Jahn concluded that unions with homogeneous membership, like LO in Sweden, tend to

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<sup>26</sup> A. ZBYSZEWSKA, *Regulating Work with People and “Nature” in Mind: Feminist Reflections*, in *Comparative Labor Law & Policy Journal*, 2018, vol. 40, n. 1, 9-28.

<sup>27</sup> A. SCHNAIBERG, *op. cit.*

<sup>28</sup> P. TAFT, *op. cit.*

<sup>29</sup> A. SCHNAIBERG, *op. cit.*, 38.

<sup>30</sup> *Ibid*, 235.

<sup>31</sup> L. TURNER, R.W. HURD, *Building social movement unionism: The transformation of the American labor movement*, in L. TURNER, H.C. KATZ, R.W. HURD (eds.), *Rekindling the movement: Labor’s quest for relevance in the twenty-first century*, Cornell University Press, 2001, 9-26, 16.

<sup>32</sup> D. JAHN, *Two Logics of Collective Action’ and Tarde Union Democracy: Organizational Democracy and ‘New’ Politics in German and Swedish Unions*, in *Economic and Industrial Democracy*, 1988, vol. 9, n. 2, 319-343.

solve the problem by neglecting it and translating ecological aspects into economic discourses. In contrast, unions that organize a heterogeneous membership, like DGB in Germany, had to find a more balanced solution to address new political and social demands without losing their traditional identity and power. This opens the discussion on different JT patterns.

Unlike ToP theory, JT assumes that unions' ability to mediate and aggregate interests is crucial to mitigating the social effects of the transition to a low carbon economy<sup>33</sup>. Confronted with ToP theory, however, the concept of JT is more nebulous and has controversial implications for industrial relations: it cannot be opposed in principle, but its meaning is debateable. Despite the many approaches to JT in existing literature<sup>34</sup>, taxonomies neglect different mixes of resources and constraints, shaping strategic choices for local economic actors more than their ideal-typical logic of collective action.

Consider the 'technological fit' discourse for example<sup>35</sup>, what Stevis and Felli call the 'shared solution approach'<sup>36</sup>. These narratives assume that, for unions traditionally oriented to market efficiency<sup>37</sup>, improved technology and market solutions (e.g. emissions trading) can innovate industry, safeguard jobs and protect the environment by reducing carbon emissions<sup>38</sup>. Advocates of a capital, labour and environment alliance argue that growth can be decoupled from environmental degradation thanks to technological advance and market dynamics. Green growth is regarded as a shared interest that can be mediated within the industrial relations system, increasing the possibility of capital redistribution between labour and the environment and preventing competition between the two. The example frequently used is UK, where union representatives are engaged in a wide range of climate-related activity in the workplace, including mitigation and adaptation to cut

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<sup>33</sup> C. LIPSIG-MUMME, S. MCBRIDE (eds.), *Working in a Warming World*, McGill-Queens University Press, 2015; N. RÄTHZEL, D. UZZELL (eds.), *Trade Unions in the Green Economy: Working for the Environment*, Routledge, 2013.

<sup>34</sup> N. RÄTHZEL, D. UZZELL, *Trade unions and climate change: The jobs versus environment dilemma*, in *Global Environmental Change*, 2011, vol. 21, n. 4, 1215-1223; D. STEVIS, R. FELLI, *Global labour unions and just transition to a green economy*, in *International Environmental Agreements: Politics, Law and Economics*, 2015, vol. 15, 1, 29-43; P. HAMPTON, *Workers and Trade Unions for Climate Solidarity*, cit.

<sup>35</sup> N. RÄTHZEL, D. UZZELL, *op. cit.*

<sup>36</sup> D. STEVIS, R. FELLI, *op. cit.*

<sup>37</sup> R. HYMAN, *Understanding European trade unionism: Between market, class and society*, Sage, 2001.

<sup>38</sup> N. RÄTHZEL, D. UZZELL, *op. cit.*; P. HAMPTON, *Workers and Trade Unions for Climate Solidarity*, cit.



emissions, based on workers' involvement in green technological improvements and energy efficiency<sup>39</sup>.

From the theory to the practice of JT, however, investment in new technology is not everywhere available or simply insufficient to convert polluting into sustainable production. Moreover, JT approaches based on technological utopianism and market forces assume growth as independent variable. Instead, in many JT cases in Europe, North America and elsewhere, the conflict between labour and the environment takes place in depressed areas and sectors with low added value and growth capacity, where monopsonist labour markets preclude any alternative option to plant shutdown or perpetuation of industrial activities dangerous to health and the environment<sup>40</sup>. As economic growth is strongly connected to reduced unemployment, for example, Austrian unions ended up prioritizing a development model that ultimately conflicts with the environment, despite their willingness to include environmental sustainability in the industrial relations agenda<sup>41</sup>. Unions' strategies should therefore confront socio-economic structural constraints that they can hardly influence, and reorient their JT strategies accordingly.

Consider the 'differentiated responsibility approach', focussing on labour market implications of JT, especially for workers employed in sectors most affected by environmental regulation<sup>42</sup>. Depending on sector, new green jobs are created and existing ones modified<sup>43</sup>. Yet, restructuring and technological changes that JT involves come with occupational challenges, including plant dismissals, job losses and workers functional and geographical mobility<sup>44</sup>. Institutional cooperation between public authorities, firms and unions is crucial to mitigating the effects of transition to a low carbon economy<sup>45</sup>. The example frequently used is Germany: when many of its coal-fired power stations closed, German government and unions provided transitional schemes for workers to find employment in the renewable

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<sup>39</sup> P. HAMPTON, *Workers and Trade Unions for Climate Solidarity*, cit.

<sup>40</sup> K.A. GOULD, D.N. PELLOW, A. SCHNAIBERG, *The Treadmill of Production: Injustice and Unsustainability in the Global Economy*, Routledge, 2016.

<sup>41</sup> M. SODER ET AL., *Beyond growth: new alliances for socio-ecological transformation in Austria*, in *Globalizations*, 2018, vol. 15, n. 4, 520-535, 528.

<sup>42</sup> D. STEVIS, R. FELLI, *op. cit.*

<sup>43</sup> C. LIPSIG-MUMME, S. MCBRIDE (eds.), *op. cit.*

<sup>44</sup> L. RUSTICO, M. TIRABOSCHI, *Employment Prospects in the Green Economy: Myth and Reality*, in *International Journal of Comparative Labour Law and Industrial Relations* 2010, vol. 26, n. 4, 369-387.

<sup>45</sup> L. CASANO, *Skills and professions for a "Just Transition". Some reflections for legal research*, in *E-Journal of International and Comparative Labour Studies*, 2019, vol. 8, n. 3, 31-46.

energy industry<sup>46</sup>. In principle, ‘transitional’ arrangements might reduce workers’ vulnerability and dependence on extractive and polluting industries, empowering their capability to react to environmental stress.

This approach to JT, however, requires labour market governance, industrial relations institutions strong enough to coordinate and govern transitional arrangements between and within sectors, and public resources to subsidise the overall process. Assuming all these conditions exist uniformly throughout the national territory, economic development is also necessary to make the transitional infrastructure work. Instead, vast areas of underdevelopment are visible within the boundaries of Western jurisdiction, characterized by degrowth, social exclusion, and environmental degradation<sup>47</sup>. JT experiences in Australia, for example, suggest that the ability for workers to find alternative decent employment after a facility closure for environmental reasons is not good<sup>48</sup>. JT strategies should therefore be reoriented towards institutional and economic factors that industrial relations institutions cannot entirely influence, such as public authorities’ and employers’ willingness and capability to provide financial support and educational opportunities for workers displaced by environmental policies. Emblematic of this JT pattern, alongside the Ruhr case in Germany, is the 2011 agreement between the employer, unions, environment protection groups and state government to close Centralia Coal Plant, a major employer in a disadvantaged region of Washington State (US)<sup>49</sup>.

Amongst radical approaches to JT, the ‘socio-ecological’ pattern<sup>50</sup> or the ‘social movement discourse’<sup>51</sup> assume that capitalism and its dividing categories (state and market, private property and public property, for example) are intrinsically incompatible with environmental sustainability. Alongside work activities within the collaborative commons<sup>52</sup>, models of reproductive and non-market work in the so-called solidarity economy (e.g. care work, work in cooperatives) are emphasised

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<sup>46</sup> J. ABRAHAM, *Just transitions for the miners: Labor environmentalism in the Ruhr and Appalachian coalfields*, in *New Political Science*, 2017, vol. 39, n. 2, 218-240; B. GALGÓCZI, *The long and winding road back to green*, in *International Journal of Labour Research*, 2014, vol. 6, n. 2, 217-240.

<sup>47</sup> K.A. GOULD, D.N. PELLOW, A. SCHNAIBERG, *The Treadmill of Production*, cit.

<sup>48</sup> D SNELL, ‘Just transition’? *Conceptual challenges meet stark reality in a ‘transitioning’ coal region in Australia*, in *Globalizations*, 2018, vol. 15, n. 4, 550-564, 561.

<sup>49</sup> ILO, *Just transition towards environmentally sustainable economies and societies for all*, ILO ACTRAV Policy Brief, 2018, 7.

<sup>50</sup> D. STEVIS, R. FELLI, *op. cit.*

<sup>51</sup> N. RÄTHZEL, D. UZZELL, *op. cit.*

<sup>52</sup> F. CAPRA, U. MATTEI, *op. cit.*

as the privileged way to deconstruct the trade-off between labour and the environment<sup>53</sup>.

Provided that unions are willing to consider these JT approaches, many contradictions arise in turning policies into reality. As a result of structural deindustrialization, emissions are declining in developed economies, in part due to the effective transfer of polluting production to the developing world with globalization<sup>54</sup>. The same goes for energy production: alternative energy sources might not suffice to empower social and economic development, thus radical approaches to JT might require importing extractive and polluting energy from other countries. Unions and other social actors should therefore consider cost-opportunities and unexpected outcomes that radical approaches to JT involve, and reorient their strategies accordingly.

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<sup>53</sup> S. BARCA, E. LEONARDI, *op. cit.*; A. ZBYSZEWSKA, *op. cit.*

<sup>54</sup> K.A. GOULD, D.N. PELLOW, A. SCHNAIBERG, *The Treadmill of Production*, cit.

### 3. Comparative analysis of national literature reviews

While the previous section discussed some theoretical implications, the next section compares the literature reviews of the selected countries, pointing out institutional similarities and differences in the six jurisdictions scrutinised. The purpose of this summary is to analyse common elements and explain them.

The first studies on the topic discussed in this report – especially those produced in France in the 1980s – highlighted the need to end the traditional separation between environmental law and labour law. Research in Spain and France, and later on in the other countries surveyed, arrived to similar conclusions. However, different reasons are provided to justify this separation. In some cases, the convergence between these domains is a consequence of the fact that they both aim at safeguarding the worker. In other cases, it is argued that it is the aim pursued by these legal disciplines that justifies their necessary approximation, i.e. the search for business continuity, as work and the environment affect production costs. Recent studies lead to a clear conclusion: it is not appropriate to conceive Labour Law and Environmental Law as two separate areas.

From a practical point of view, one essential move is to remove the first obstacle to this necessary convergence: the duality between the internal and external environment. The protection of the worker's health requires eliminating this distinction. Workers' full protection needs to guarantee healthy conditions during work performance and also when participating in business activity. Supiot's notion of 'mixed risks' and its subsequent generalization in the most recent studies carried out in the other countries will be particularly relevant for this purpose. Furthermore, the most recent theoretical assumptions on decent work have brought to the fore the fact that this objective can only be achieved if supported by effective environmental protection. In other words, the two values – decent work and environmental sustainability – are complementary, although legal and industrial relations systems should be adjusted to promote their practical convergence. However, developments in the theoretical arguments analysed have not always been accompanied by a commitment by lawmakers to conceiving the environment as part of the content of labour standards. Therefore, it is not easy to find examples in our legal systems of their clear commitment to ending the separation between these areas. On the contrary, the tendency to regard the environment as a niche of employment that will necessarily have to be promoted in the near future is more generalized.

*Highlights of specialized literature*

Given that workers are the most immediate knowers of the employer's noncompliance with environmental obligations, it is logical to give them some reaction mechanisms. To this end, the practical and virtual nature of collective conflict instruments has been examined. Research has detected an increasing assumption that strikes are used to react to environmental non-compliance.

It has been highlighted that it is necessary to take advantage, also in these contexts, of the ways in which workers participate in the company. Thus, in countries such as the Netherlands, where co-management instruments have been used significantly, it will be easier to involve workers in the sustainable management of the companies in which they operate. In general, the logic of collective action by trade unions might include conflict-oriented policies or more cooperative policies with employers and public institutions, depending on the sectors and types of organizations. This is also the case in countries where co-management is less widespread. Furthermore, the perspective of the commons, adopted in the Italian literature, is described as the best alternative to promote full convergence, rather than attempting to strike a simple balance between work and the environment.

In addition, it has been argued that there is a need to provide individual workers with protection mechanisms that do not prevent them from adequately reporting the breaches they detect. In this sense, some specific research was developed following the approval of the recent Community Directive.

In relation to the detection mechanisms referred to above, this research has pointed out some shortcomings concerning their adaptation to those elements characterizing environmental protection, i.e. the difficulty of incorporating the precautionary principle, which can be found in environmental law. In the context of labour law, the relevant literature has also stressed the need to use some traditional concepts employed in other discipline, i.e. sustainable development and the precautionary principle.

Relevant research argues in favour of the labour contract to be used as a tool for environmental protection. In this sense, some scholars have attempted to stress the scope for individual autonomy to introduce contractual clauses regulating environmental issues. Yet this possibility is frequently unfeasible, owned to the unstable employment conditions affecting labour relations in the countries

surveyed. Consequently, some research is being developed concerning how workers can deal with instructions negatively affecting the environment.

Given the lack of attention attributed by labor law to environmental protection in most legal systems analyzed, CSR has been finally regarded as an adequate instrument to make up for these shortcomings.

CSR might bring together the legal systems examined, from the most advanced (e.g. France) to the least developed ones (e.g. Hungary). Yet those arguing against this tool have posited that using CSR points to the lawmakers' unwillingness to introduce necessary legal rules, indicating collective bargaining as the ideal means to ensure the employer's commitment when it comes to environmental issues.

### *Collective bargaining and the environment*

With respect to the scope of collective bargaining to include environmental protection among the objectives of labour law, the following summarizes the views of the most significant research.

Firstly, one might note that monographic research discussing the role of collective bargaining in this context is few and far between. These studies agree that the collective agreement continues to be an underused instrument despite its enormous potential. Few collective agreements deal with this issue in a systematic way, regulating specific aspects only in some economic sectors.

However, attempts have been made to focus on specific issues concerning environmental protection and sustainability aspects. The Italian literature provides the example of so-called "green pay", i.e. pay mechanisms in which wage increases are linked to energy efficiency and the reduction of environmental impacts. Nevertheless, there is also significant reluctance on behalf of workers' representatives in charge of negotiating collective agreements to widen the role of collective bargaining for these purposes.

Besides the contents and strategies of collective bargaining, the relevant literature reviews show how unions are increasingly recognizing the importance of promoting sustainable development and, in a few cases, finding alternatives to the current socio-economic order based on the misleading idea of quantitative growth on a finite planet. In some cases, the role of trade unions in environmental protection arises in relation to the prevention and management of natural and environmental

disasters, as well as in the adoption of strategies to promote sustainable consumption among their members and communities.

To conclude, we can affirm that little research has been carried out on ways to bring together labour law and environmental protection through collective bargaining, even in those national systems where much progress has been reported in this sense. In addition, in some of the countries selected for our project, the pioneering nature of a study such as this one is evident. Therefore, it is clear that the analysis we face, as well as its comparative nature, will pave the way for further research on this topic.

In particular, one of the objectives of our studies will be to overcome the misperception by certain trade union sectors that environmental protection is detrimental to employment. On the contrary, our studies will contribute to the view that the inclusion of green clauses in collective bargaining is an opportunity for the creation of quality and healthy jobs. In addition, literature reviews show a wide range of complementary trade union activities to promote environmental justice, e.g. from those based on traditional, class-oriented strategies to those aimed at establishing cooperative relationships with employers, civil society and those in charge of certain political formations.

## 4. Institutional characteristics of collective bargaining

As a first step, studying the ‘green’ clauses in collective bargaining in the countries examined requires a comparison of the different collective bargaining systems in place in those countries. Specifically, aspects related to the effectiveness granted by the respective legal systems to collective agreements, as well as the structure of collective bargaining, will be decisive for this purpose. Firstly, we will deal with the scope for including these green clauses. Then, we will see how these aspects end up affecting the implementation of these clauses in the collective agreements in place in each country.

All the legal systems of the countries selected for our study are based on marked regulation diversity. The role of the collective agreement in each of them has changed over the years. Moreover, there exist peculiarities in each collective bargaining system surveyed.

When converting collective agreements into instruments that make the transition towards a more environmentally friendly economy possible, the consequences of such difference are clear. Thus, making the collective agreement effective will turn the commitments made in collective bargaining into mandatory clauses for the company, which in the event of non-compliance, can be challenged in courts. Similarly, a more centralized system of collective bargaining will have more possibilities for the implementation of environmental protection measures, due to power equalization.

However, this apparent disparity in collective bargaining systems needs to be nuanced as a result of recent developments in all the countries examined in our study. Some common characteristics exist, which are analyzed below.

Especially after the legal reforms following the 2008 crisis – and, prior to that, in the UK and Hungary – collective bargaining had been intended as an appropriate instrument to make working conditions more flexible. To this end, collective bargaining has undergone change to facilitate this objective.

A clear trend towards decentralisation of the collective bargaining system is evident in almost all legal systems in our analysis, except for Italy. In all these legal systems, sectoral collective agreements are losing importance when compared to company-



level collective agreements. This trend will undoubtedly make it more difficult to incorporate green clauses in such collective agreements.

One consequence of this decentralization is the negotiation power allocated to new actors representing the workers, who usually are not able to conclude fair agreements with the company.

At the same time, there is a gradual increase in the role granted by law to collective bargaining for the regulation of labour relations issues traditionally governed by law. This also expands the scope for negotiating green clauses.

A generalized loss of conventional coverage has been reported. As a result of the increase in precarious employment, significant groups of workers will be excluded – for one reason or another – from the protection afforded by collective agreements and will feel less involved in achieving business objectives related to environmental sustainability.

All these characteristics do not prevent the collective agreement from taking on a greater role in the protection of the environment in the future, basically because none of the systems examined contain the prohibition of this type of clause. In all of them, it has been chosen to clearly define the possible contents of the collective agreements.

In short, the incorporation of green clauses in the different systems of collective bargaining is open, and their implementation depends on two circumstances. On the one hand, the balance of power between the negotiators; on the other hand, the will of the social partners to turn collective bargaining into an instrument for regulating environmental issues.

### *Possibilities of green clauses*

One of the common elements emerging from the comparative analysis of the legal systems analyzed in our study is that none of them expressly limit the existence of this type of clause. That is to say, from a theoretical point of view, green clauses can be part of the terms negotiated by workers and employers in the framework of collective bargaining in all the countries analysed.

The scope for collective bargaining to incorporate green clauses is not the consequence of the attribution of express competence by the corresponding national

rules. In all the countries analysed, this possibility is rather the consequence of a general freedom of negotiating content. Thus, for example, in Hungary we find a generic recognition of conventional competence. This competence would include, as they are not excluded, all questions relating to the environmental impact of business activity. The same situation can be extended to the other legal systems, although with different formulas. In the Spanish case, together with the compulsory content of the collective agreement, there is the possibility of including all those issues that, subject to agreement, the parties consider to be relevant (e.g. green clauses).

In other cases – such as the Italian system – introducing green clauses are more the consequence of the low degree of state intervention in the collective bargaining system than a commitment to collective bargaining. The strong voluntarism featuring the British legal system becomes its main problem. While voluntarism theoretically sets no limitations and leaves it to the actors to determine the appropriate negotiating and bargaining issues, the statutory framework provides no incentives to the inclusion of environmental issues given that it prescribes the baseline scope for negotiating and bargaining issues narrowly, and gives recognition and rights to facility time and pay to only two categories of legal representatives. While this might have no impact on workplaces where recognition is voluntary, there are amicable or outright cooperative labour-management relations, or where the union is particularly strong, it is likely that these statutory baselines discourage the attempt to broaden negotiations and collective bargaining even in workplaces where, at least theoretically, ‘sky is the limit’ as far as labour-management relations are concerned.

Thus, there is significant room for including these clauses in the five countries selected. However, a major problem arises. As green clauses are not mandatory, their insertion will depend on whether those engaged in collective bargaining are interested in environmental issues and on the balance of power between them.

Moreover, the presence of these clauses will ultimately depend on the characteristics of national collective bargaining. For example, the strengthening of a centralized system with significant trade union presence might favour the incorporation of these clauses, enabling workers’ representatives to broaden negotiation and seek specific working conditions. Likewise, the normative character attributed by some legal systems ensures the fulfillment of the commitments agreed upon, which is not the case when these obligations are dealt with through soft-law initiatives.

### *Plurality of collective bargaining systems*

One conclusion that can be drawn from this comparative analysis is that collective bargaining systems within the European Union are highly diverse. Therefore, the legal effectiveness given to collective agreements, the negotiating actors and the structure of the different systems vary to a large extent. These characteristics will undoubtedly condition the significance of collective bargaining with regard to business environmental policies.

However, despite some clear differences, certain common traits exist in the evolution of each system, enabling comparison. A summary of the characteristics of collective bargaining in each country examined will follow, in order to understand the options available in relation to the issues investigated here.

### *The Spanish case*

The Spanish legal system places much store by collective bargaining and the collective agreement. Article 37.1 of the Spanish Constitution recognizes the binding nature of collective agreements and the Constitutional Court considers them to be fundamental rights due to their ties with the right to trade union action.

Since its first draft in 1980, The Workers' Statute has provided regulatory effectiveness to the collective agreement negotiated in accordance with the provisions of Title III. Article 82, paragraph 1, of the Workers' Statute defines collective agreements as the result of negotiations between the representatives of the workers and the employers, i.e. an agreement freely adopted by them by virtue of their collective autonomy.

Collective agreements in Spain can be negotiated at both company and sectoral level. Company-level collective agreements can be negotiated by trade unions and works councils. Sectoral-level collective agreements can only be negotiated by trade unions. Both have normative character, i.e. they are binding on all workers and employers falling within their scope of application.

The Spanish system of collective bargaining was thoroughly reviewed by the 2012<sup>55</sup> reform, so now company-level collective agreements are given priority. In addition, sectoral-level collective agreements may be waived at the company level. In other words, the 2012 reform aimed to reconsider the negotiation ability of the parties. Specifically, workers' position will be weakened if the negotiation process is decentralised.

It should be noted that collective agreements may include clauses concerning environmental issues. Once incorporated into the collective agreement, these clauses will be binding on the employer<sup>56</sup>. Therefore, the collective agreement could become an instrument for implementing environmental clauses, provided that workers are ensured a minimum negotiating capacity, which as seen was seriously limited following the 2012 reform.

Green clauses are not considered as fundamental clauses that must be included in collective agreements, thus their inclusion and their binding force depend on the voluntarism of the social bargaining agents. The definition of the rights and obligations related to environmental issues will be discussed in ad hoc negotiations entered into by social stakeholders in each company or sector. Although little interaction exists between environmental and labour rights in Spanish collective bargaining, things have started to change recently, so social rights are also discussed in debates about climate change. This situation was mostly the result of Law 2/2011 of 4 March on the Sustainable Economy, which came into force on 6 March 2011. When examining successful environmental strategies, there is a need to focus on some good practices implemented on the sectoral level. Moreover, different initiatives have been put in place by the Spanish social partners about environmental issues. The number of sectoral agreements has expanded, and the results have increased slowly but unsteadily, especially during the last ten years (more than 117 collective agreements have been concluded). In quantitative terms, the strategic relevance of the overall number of sectoral instruments should not be underestimated.

From a practical point of view, we must stress that, despite the recognition of collective bargaining in the Spanish legal system, the share of workers who do not have a collective agreement has increased steadily since the economic crisis. During

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<sup>55</sup> See M.M. RUIZ CASTILLO, J. ESCRIBANO GUTIÉRREZ, *La negociación colectiva y el convenio colectivo en el panorama actual de fuentes del Derecho del Trabajo*, Bomarzo, 2013.

<sup>56</sup> See C. CHACARTEGUI TÁRREGA, *Negociación colectiva y sostenibilidad medio ambiental. Un compromiso social y ecológico*, Bomarzo, 2019.

this decade, there has been a significant decline in coverage, which<sup>57</sup> will affect the effectiveness of negotiation as an appropriate instrument to enable sustainable development.

### *The UK case*

The regulation and practice of industrial relations in the UK have substantially changed in the past few decades. Closely linked with this change has been the fall in union membership, which has halved since 1979<sup>58</sup> and dropped to 23.2% of the workforce in 2017<sup>59</sup> – although with important differences between the private (13.5%) and public (51.8%) sector<sup>60</sup>. Following a similar trend, the percentage of employees covered by a collective agreement decreased from 65%<sup>61</sup> to 26%<sup>62</sup> between 1968 and 2017 – although, again, this is an average estimate, since coverage is 57.6% and 15.2% in the public and private sector<sup>63</sup>, respectively.

Bargaining in the UK commonly took place at industry and multi-employer level until the 1970s – although it had already started to become less frequent in the 1950s<sup>64</sup>. However, the decline of these agreements accelerated in the 1980s<sup>65</sup> and, by the 1990s, 80% of the coverage concerned agreements negotiated at the single-employer level<sup>66</sup>. The result of increased international competition and employers' demands for flexibility<sup>67</sup>, this fragmentation<sup>68</sup> of bargaining structures also affected the plant level<sup>69</sup>. Importantly, not all employees who lost coverage of multi-employer agreements were protected by single-employer agreements. This partially

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<sup>57</sup> See Observatorio de la negociación colectiva, *Boletín de la Comisión Consultiva Nacional de Convenio colectivos*, 2018, n. 66.

<sup>58</sup> 13 million members, see DEPARTMENT FOR BUSINESS, ENERGY, AND INDUSTRIAL STRATEGY, [Trade Union Membership 2017: Statistical Bulletin](#), 2017, 4.

<sup>59</sup> 6 million members, see *ibid.*

<sup>60</sup> See *ibid.*, 12.

<sup>61</sup> W. BROWN, [The Contraction of Collective Bargaining in Britain](#), in *British Journal of Industrial Relations*, 1993, vol. 31, n. 2, 191.

<sup>62</sup> DEPARTMENT FOR BUSINESS, ENERGY, AND INDUSTRIAL STRATEGY, *op. cit.*, 35.

<sup>63</sup> See *ibid.*

<sup>64</sup> H.C. KATZ, [The Decentralization of Collective Bargaining: A Literature Review and Comparative Analysis](#), in *Industrial and Labor Relations Review* 47, 1993, 10.

<sup>65</sup> *Ibid.*

<sup>66</sup> See (n. 4), 194-195.

<sup>67</sup> N.E. WERGIN-CHEEK, [Collective bargaining has been decentralised in the UK and Germany over the past three decades. But in Germany, unions have retained much more power](#), published on 12<sup>th</sup> of April 2012 on LSE's Blog.

<sup>68</sup> S. ZAGELMEYER, [Governance Structures and the Employment Relationship: Determinants of Employer Demand for Collective Bargaining in Britain](#), Peter Lang, 2004, 21.

<sup>69</sup> See n. 7.

explains the massive fall in the percentage of employees covered by any collective agreement since the 1960s.

Nowadays, worker representation in the UK usually takes place at the union level – ‘single-channel’ representation – and the workplace level – ‘single-employer’ bargaining<sup>70</sup>. As such, workplace-level bargaining is a crucial mechanism for the protection of workers’ rights. However, while it favours voluntarism<sup>71</sup>, the UK system makes it increasingly difficult for unions to enter into negotiations with their members’ employers. The literature suggests that the UK system allows for any period of trade union weakness to be exploited by firms intent on revoking collective agreements and setting wages unilaterally<sup>72</sup>.

Recognition entitles union representatives to bargain with employers. According to the law, the scope for negotiation is a narrow one – mostly conditions of work (pay, hours, holiday), allocation of work duties, disciplinary matters, facility time for representatives and other trade union matters<sup>73</sup>. However, any other issue may be included if the employer and union representatives agree on it. Thus, where amicable or cooperative industrial relations exist, or where unions are particularly influential, this scope can be expanded regardless of how union recognition developed. It is important to note that the presumption will be that the parties to a collective agreement do not intend to give any legal force to the agreement – unless a provision stating that it shall be legally enforceable is included<sup>74</sup> – and most agreements across the country are voluntary<sup>75</sup>. If agreements are not legally

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<sup>70</sup> K. NERGAARD, J.E. DØLVIK, P. MARGINSON, F. TRAXLER, J. ARASANZ DÍAZ, *UK Engaging with variable pay: Union responses in a comparative perspective*, in *Paper prepared for the 8th European Congress of the International Industrial Relations Association September 3<sup>rd</sup> - 6<sup>th</sup>*, 2007, 5.

<sup>71</sup> M. TERRY, *Employee Representation: Shop Stewards and the New Legal Framework*, in P. EDWARDS (ed.), *Industrial Relations: Theory and Practice*, John Wiley & Sons, 2009, 258.

<sup>72</sup> G. BOSCH, *Shrinking collective bargaining coverage, increasing income inequality: A comparison of five EU countries*, in *International Labour Review*, 2015, vol. 154, n. 1, 59.

<sup>73</sup> More specifically, Section 178(2), Trade Union and Labour Relations (Consolidation) Act 1992, available [here](#), prescribes the material scope of negotiation as including: terms and conditions of employment, or the physical conditions in which any worker is required to work; engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers; allocation of work or the duties of employment between workers or groups of workers; matters of discipline; a worker’s membership or non-membership of a trade union; facilities for officials of trade unions; and machinery for negotiation or consultation, and other procedures, relating to any of the above matters, including the recognition by employers or employers’ associations of the right of a trade union to represent workers in such negotiation or consultation or in the carrying out of such procedures.

<sup>74</sup> Section 179(1), Trade Union and Labour Relations (Consolidation) Act 1992, available [here](#).

<sup>75</sup> TUC, *Guide to Collective Bargaining*, accessible [here](#).

enforceable, they will be deemed “binding in honour only”<sup>76</sup>, which is problematic as enforcement will remain optional.

As discussed, the UK legal framework allows for negotiations to take place on any issue, as long as union representatives and employers agree. This explains why bargaining in the UK has historically extended beyond terms and conditions of employment to encompass issues related to the organisation and pace of work, technological innovation, processes of production, recruitment, work allocation, or the exercise of disciplinary sanctions<sup>77</sup>. It follows that environmental matters may, in principle, be included in collective bargaining if both parties decide so. However, employers are under no legal obligation to add environmental issues to the negotiating agenda, or agree when the union proposes to include them, if they do not wish to do it.

Consequently, while voluntarism theoretically sets no limitations and leaves it to the actors to determine the appropriate negotiating and bargaining issues, the statutory framework provides no incentives to the inclusion of environmental issues, given that it prescribes the scope for negotiating and bargaining issues narrowly and gives recognition and rights to facility time and pay to two categories of legal representatives.

### *The Italian case*

After the Second World War, Italian labour law sought to escape the corporatist nature of fascist law, resulting in legal abstensionism on collective bargaining and trade unions. As a consequence, the Italian system of collective bargaining do not have *erga omnes* power: the effectiveness of collective agreements is of a purely contractual nature, their application depending on the mutual recognition of the parties<sup>78</sup>. This means that, unlike other countries analyzed in this research, companies and independent contractors are not obliged to apply a given sectoral collective agreement.

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<sup>76</sup> S. ZAGELMEYER, *Governance Structures and the Employment Relationship: Determinants of Employer Demand for Collective Bargaining in Britain*, Peter Lang, 2004, 22.

<sup>77</sup> See (n. 14), 266.

<sup>78</sup> P. TOMASSETTI, *From Fixed to Flexible? Wage Coordination and the Collective Bargaining System in Italy*, in *International Journal of Comparative Labour Law and Industrial Relations*, vol. 33, 2017, n. 4, 527-552.

Despite this institutional characteristics, Italy's system of collective bargaining has traditionally ensured wide coverage. The strong trade union presence in the different productive sectors has made it possible wide collective agreement implementation<sup>79</sup>.

Given the lack of state intervention in collective bargaining affairs, collective agreements can freely include environmental clauses<sup>80</sup>. The law does not determine a restriction of contractual contents, which will depend on the parties' willingness to negotiate over aspects corresponding to their reciprocal interests.

These characteristics have not been altered by the regulatory reforms approved in the last decade. While the decentralization of collective bargaining has been strengthened by several normative and economic incentives, and the firm-level power to derogate from sectoral collective agreements have been broadened<sup>81</sup>, the system is still based on the principle of mutual recognition and the parties are free to choose the bargaining issues.

As a result, the Italian system of collective bargaining is ideal for making the collective agreement a suitable instrument enabling a participatory transition to a green economy. The lack of rigid regulation facilitates the inclusion of green clauses in collective agreements, despite this will depend on the interests of and power relations between the parties.

### *The Hungarian case*

The Hungarian legal system – and its collective bargaining model – is heavily influenced by its past. The transition from a socialist model to a capitalist one created a vacuum in workers' participatory structures, deteriorating the possibility of collective bargaining to become a tool for governing working conditions. Evidently, the wide recognition of freedom of enterprise in the constitution ends up conditioning many of these characteristics.

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<sup>79</sup> A. FORSYTH, P. TOMASSETTI, *Different Legal Systems, Same Normative Contents? Collective Bargaining at Apple, Ikea and Tiffany Stores in Australia and Italy*, in *Australian Journal of Labour Law*, Vol. 32, 2019, n. 2, 192-218.

<sup>80</sup> P. TOMASSETTI, *Diritto del lavoro e ambiente*, ADAPT University Press, 2018, 220 ss.

<sup>81</sup> P. TOMASSETTI, *The shift towards single-employer bargaining in the Italian car sector: Determinants and prospects at Fiat*, in *E-Journal of International and Comparative Labour Studies*, vol. 2, 2013, 93-111.



In Hungarian law, company- and local-level agreements are given priority, as these are the only bargaining levels recognised by the Labour Code. As a result, sectoral collective bargaining has been poorly implemented and does not exist at the national level. This circumstance will obviously condition the practical incorporation of clauses dealing with environmental issues.

The content of collective agreements in Hungary can be amended and clauses on different issues can be incorporated. However, the main obstacle to this is that the Hungarian system does not provide for any sanctions in case of non-compliance with approved collective agreements. The binding nature of collective agreements is recognised, but since no sanction is envisaged in case of non-compliance, their application is greatly affected. The parties may seek legal remedy in case the employer violates any provision on information or consultation<sup>82</sup>. Special clauses for the enforcement of claims on any grounds laid down in the collective agreement may be provided in the collective agreement itself<sup>83</sup>.

Recently, non-union entities (works councils) have been given the power to negotiate collective agreements, which has weakened trade union organisations<sup>84</sup>. This move was intended to widen coverage, which is regarded as a main feature of collective bargaining in this country. This lack of bargaining coverage contrasts with the recognition of the increasing ability of collective bargaining to introduce regulations less favourable to workers than those contained in heteronomous rules.

Regrettably, trade union density has always been relatively low and has reported a continuous decrease ever since the 1989 regime changed. This means that collective agreement coverage is also low in Hungary. According to some experts, it seems to stand at 20%, but sources vary on the actual percentage. The latest official data made available by the Hungarian Central Statistics Office<sup>85</sup> are from the second quarter of 2015, and they show that both trade union density and, as a result, collective agreement coverage, vary depending on the sector. As for trade union density, the lowest percentage is around 1.4%, while the highest is 29% (9% on

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<sup>82</sup> Paragraph (1) of Section 289 of the Labour Code.

<sup>83</sup> Section 290 of the Labour Code.

<sup>84</sup> I. KÉPESNÉ SZABÓ, B. ROSSU, *Country Report Hungary*, in *An attempt to revitalize social dialogue and national industrial relations systems in some of the CEECs – lesson learnt and best practices in the way out of the crisis*, Melinda Kelemen, LIGA Szakszervezetek, 2015, 10-16.

<sup>85</sup> *Központi Statisztikai Hivatal* (in Hungarian), (official abbreviation: KSH), available online at: <https://www.ksh.hu/?lang=en>.

average), whereas agreement coverage is between 5% and 62%, resulting in an average of 24%<sup>86</sup>.

### *The French case*

Over the last decade, the French legal system has undergone major changes in the traditional nature of national collective bargaining. Following the economic crisis, an overall reform of the Labour Code gave rise to a new system of collective bargaining, which aims to ensure the flexible regulation of working conditions at companies through collective agreements. In this sense, the most innovative measures concern:

- company-level collective bargaining, which has been strengthened compared to sectoral bargaining;
- negotiating legitimacy, which has been allocated to entities that until now had no rights to represent workers.

French collective bargaining has been characterized by strong unionization. The privileged negotiation actors have been the most representative trade union organizations in each sector. Moreover, a highly centralized system has been adopted.

After the reform, the new regulation led to a reduction of the professional sectors and the inter-professional level lost its relevance as a privileged bargaining space. Following the 2016 and 2017 reform, agreements concluded at company level (*niveau de l'entreprise*) are now given priority. The aim is to give these collective agreements precedence over sectoral ones, with a few exceptions relating to certain matters.

In order to enable strengthening of company collective bargaining, negotiating legitimacy is granted to those who until now were not entitled to enter into negotiations. Moreover, when there are no valid interlocutors in the company, the employer can hold a referendum to ratify the company-level collective agreement<sup>87</sup>.

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<sup>86</sup> G. NÉMETH, E. RAINER, *Félúton a rezignáció és a felemelkedés között - Aktuális események a magyar szakszervezeti mozgalomban*, Friedrich Ebert Stiftung, Budapest, 2018, 26, available online at: <http://library.fes.de/pdf-files/bueros/budapest/14551-20180919.pdf>.

<sup>87</sup> Dossier *Le référendum dans l'entreprise: nouveau mode de dialogue social?*, in *Droit Social*, 2018, 404; F. PETIT, *Le référendum visant à sauvegarder un accord collectif "minoritaire"*, in *Droit social*, 2020, 96.

Once again, we are dealing with a legal system that does not prevent making reference to environmental protection clauses in collective bargaining. There is no legal provision about this, so the inclusion of these clauses will depend on the will of the negotiating parties and the relations of power between them. The current situation, in which workers' representation has been weakened, does not contribute to achieving these results.

Alongside traditional instruments, informal social dialogue has been developing in France, which also incorporates environmental aspects. Their importance cannot be overlooked, as they raise awareness among workers about the significance of adopting environmentally-friendly behavior and anticipate the clauses laid down in collective agreements.

### *The Dutch case*

In the Netherlands, the use of the collective agreement as an instrument for environmental protection competes with tripartite agreements. Although collective agreements can incorporate green clauses, sectoral-level tripartite agreements usually contain clauses of this type.

One of the most striking features of the Dutch system of collective bargaining is the influence of national tripartite negotiations on collective agreements. The importance of these tripartite negotiations is such that some authors maintain that collective bargaining in the Netherlands is mainly carried out in the Labour Foundation and in the Economic and Social Committee<sup>88</sup>. Therefore, in this system, the analysis of the agreements concluded in the context of these institutions will be more important than the content of the specific collective agreements.

The Collective Bargaining Act currently in force defines the collective agreement as the “agreement reached between one or more employers or employers' associations and one or more workers' organisations, to regulate mainly or exclusively the working conditions to be observed in employment contracts” (art. 1.1). Although the above-mentioned provision expressly refers to “workers' organisations” without further specification, it is trade unions, almost exclusively, that are involved in the negotiation of collective agreements on behalf of workers,

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<sup>88</sup> W. BOUWENS, “The Netherlands”, *The actors of Collective Bargaining. A World Report, XVII World Congress of Labour Law and Social Security*, Montevideo, September 2003, ed. R. Blanpain, Kluwer Law International, The Hague, 2004, 280.

so other workers' representatives within the company (e.g. works councils) only play a marginal role.

There are no criteria linked to the representativeness of the parties in the area concerned. Nor is there any legal duty to negotiate, so trade unions and employers (or employers' associations) are free to decide whether to enter into negotiations and to choose the counterpart. This depends on the willingness of both parties and is subject to certain measures which – where appropriate – could compel them to participate in bargaining. It is frequently the case that different unions operating in an economic sector or in a company are involved in collective bargaining. In the event of disagreement, the exclusion of the conflicting union might take place. If no union has been involved in the negotiation, the possibility of joining an existing collective agreement is considered, provided that the parties agree to do so. However, freedom of negotiation, trade union pluralism and the lack of regulation of trade union representation may lead to tense situations if the employer chooses to negotiate with few members within the scope of the agreement. This is the case whether a minority trade union or trade unions that are members of the large trade union confederations are involved (FNV, CNV or MHP), yet having little representation powers.

Despite the predominance of sectoral bargaining, there is a trend towards decentralization, which takes place in a twofold direction. Sectoral agreements concluded at company level are used as framework agreements, the clauses of which are negotiated and adapted to the idiosyncrasies of the company, or even at lower sectoral levels. Alternatively, sectoral agreements are replaced by company agreements<sup>89</sup>.

As far as effectiveness is concerned, collective agreements in the Netherlands are binding on those subjects represented by negotiators. However, a broad process of extension of the collective agreement is being considered in order to ensure that they apply to all those who can benefit from the advantages included in such collective agreements.

To conclude, collective bargaining in the Netherlands is going to be markedly conditioned by the limits agreed upon in the framework of the tripartite negotiations held at national level, and the recommendations made by the social partners (if any).

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<sup>89</sup> M. VAN KLAVEREN, K. TIJDENS, *Collectively agreed wages in The Netherland*, in *Background paper European Policy Conference, Collectively agreed wages in Europe: Challenges in the statistical and political field*, HIVA- KU Leuven, 2012, p. 4.

Given the flexibility of the normative model of collective bargaining, the fulfillment of the commitments agreed by the company in relation to environmental protection will depend on the relations of power in the each area and, in this case, on the guidelines set by the national tripartite bodies.

## 5. A paradigm shift? Social partners' change of attitude

As stated before, the relationship between work and environment has not always been peaceful. From a regulatory point of view, environmental and labour protection has remained separate with only few points of contact. This separation has concerned protection against risks within the company and external protection of those living around the employer's premises.

On the business side, the environmental management has been considered mainly as an exclusive competence of the company's owner. Any negotiation of environmental issues was seen as affecting his/her competence. On the trade union side, the negotiation and approval of environmental issues in collective bargaining was understood as a move away from the issues that were of most interest to workers. Moreover, environmental legislation was sometimes conceived as affecting employment levels at the company.

In recent years, there has been an increase in environmental awareness. Issues such as climate change are becoming more widely accepted and there is more willingness to limit certain activities that are particularly harmful to the environment.

Prior to analysing the most recent manifestations of collective bargaining in the countries investigated, we will assess whether this change in people's attitude is also seen in those involved in the negotiation of collective agreements.

In this sense, all the national studies carried out within the Agreement project conclude that the attitude of the social partners has also changed. For example, in the case of Italy, there has been an understanding of environmental values in the most important trade union organisations. In France, some trade union confederations have been reasserting their commitment to the environment, by also amending their statutes. Thus, the CGT, one of the main trade union centres in France, has incorporated environmental protection into its programme documents from 2016 onwards. The CFDT amended its statute in 2014, arguing that respecting the environment and biodiversity is one of the major imperatives for the promotion of fundamental social rights.

This dynamic has recently gained momentum in the media and at the national level with the promotion of a document – made up of 66 proposals – entitled “The

urgency of a social and ecological pact (To give everyone the power to live)”. This document – which originated in the context of civil society – was disseminated by the media, as it was put forward by Nicolas Hulot (a popular environmental activist and the former Minister of Ecological Transition) and the Secretary General of the CFDT, Laurent Berger. This communication was carried out in the midst of a crisis known as the “yellow vests” crisis and mobilizations for the climate<sup>90</sup>. This pact is the bearer of a renewed social approach that almost takes the form of a government programme. It originated from the coalition of nineteen organisations (foundations and associations) from the environmental protection and social movements, and included two reformist trade union confederations (CFDT and CFTC). The document lays the foundations for a broader public debate and an agenda for transforming public policy. The development model is challenged (reinventing the common good to rebuild society) in order to reconcile ecological transition with social justice. Proposals related to sustainable development include those on mobility (employer reimbursement of car-sharing and bicycle costs for commuting) and the need to ensure employees and companies are supported in their efforts to deal with the consequences of the ecological transition on employment. On the doctrinal level, the alliance of trade union and association actors attest to the porosity (or even unity) of certain social and environmental demands. However, this state of affairs leads to a blurring of the social dialogue landscape, since the approach is global and includes new actors from civil society (associations, foundations and NGOs).

In the same vein, Spanish trade unions have progressively taken on board proposals of environmental defense. Even if the capitalist crisis after 2007 has relegated environmental concerns at the bottom of the agendas of most political and trade union organizations, many stakeholders have become more and more aware of these issues. Since the nineties, the UGT and CC.OO. congresses have also dealt with environmental protection issues. For example, the UGT’s guide, *The Environment and Works Councils*, released in 2001, reflected the need to refer to this aspect in company-level collective bargaining. CC.OO. also published a *Guide to Environmental Action in Companies* in 1996, proposing to include green clauses in collective agreements. Furthermore, CC.OO. has created the Confederal Secretariat for the Environment, which is in charge of protecting the environment. The Trade Union Institute of Work, Environment and Health (ISTAS), founded by CC.OO. is a foundation which also performs the same tasks and deals with occupational health. This Foundation has carried out rigorous studies that have highlighted the

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<sup>90</sup> <https://www.publicsenat.fr/article/politique/berger-et-hulot-proposent-leur-pacte-social-et-ecologique-138693>.

environmental impact of certain business behaviours, e.g. the Report on the so-called hydraulic fracturing system for the extraction of non-conventional gases (Fracking), published in January 2012.

However, the most determined commitments to environmental protection can be found in the congress documents of less representative trade unions, e.g. that of ESK (*Ezker Sindikalaren Konbergentzia*). At its last general meeting, the union expressed its conviction that environmental protection must become one of the basic pillars of union action. The union is convinced that “on the environmental level, one could say that there has also been a *coup d'état* in the biosphere. Ecosystems have been condemned to forced labour in their activities, not concerning life, but capital accumulation”<sup>91</sup>. That is why they consider that improvements in workers’ activity and life must be linked to environmental protection. In a similar vein, the most recent programmatic documents of trade union organizations such as Solidaridad Obrera<sup>92</sup>, CGT or Sindicato Andaluz de Trabajadores aim to tackle transgenic crops and ensure food sovereignty.

Trade unions in the Netherlands and Great Britain have expressed the same concerns. In the case of the Netherlands, this commitment to environmental protection is evident in the participation of the trade unions in the tripartite bodies. For their part, British social organisations have traditionally shown a major commitment to the environment. The Trades Union Congress (TUC) has been promoting union engagement in this agenda since 1980s, beginning with its Charter for the Environment<sup>93</sup> and its early calls for union reps to have statutory rights for inspection, information, and training on environmental, pollution, and climate issues<sup>94</sup>. More recently, the TUC has produced a significant body of material on sustainability, climate adaptation, and Just Transition.<sup>95</sup> This material ranges from policy briefs and campaign resources setting out their stance on key sustainability issues, to educational and training manuals aimed at building capacity among

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<sup>91</sup> Conclusions IV Asamblea General de ESK (Bilbao, August 2013).

<sup>92</sup> See A. OJANGURE, M. GALÁN, J.L. CARRETERO, *Sindicalismo y ecología*, in *El Ecologista*, 2014, n. 80, 41.

<sup>93</sup> P. HAMPTON, [Trade unions and climate politics: prisoners of neoliberalism or swords of climate justice?](#), in *Globalizations*, 2018, vol. 15, n. 4, 473.

<sup>94</sup> See *ibid*, 474. The TUC still had the same demands 21 years later (see TUC, [Trade Unions and the Transition to a Low Carbon Economy](#), 2012).

<sup>95</sup> P. HAMPTON (*Workers and Trade Unions for Climate Solidarity*, cit., and [Trade unions and climate politics: prisoners of neoliberalism or swords of climate justice?](#), cit.) reviews some of these initiatives in detail. Also, see LRD reports *Unions and Climate Change – The Case for Union Environmental Reps*, June 2009, and *Green Unions at Work 2012*, May 2012). An update of these reports is scheduled to be published by LRD in late 2019.



workers and trade union reps and at preparing them for collective bargaining on these issues. Many of the TUC's constitutive unions have followed suit to develop their own policies, campaigns, and training modules, which led to some often-cited examples of workplace initiatives and agreements pertaining to environment/labour nexus developed over the past 15 years.<sup>96</sup>

In Hungary, it seems that trade unions are still anchored to an old approach to the environment. They focus on traditional demands for better working conditions and do not understand the importance of fighting for a more sustainable world.

### *Summing Up*

On the basis of the above, and save for Hungary, trade unions have acknowledged the need to demand measures promoting a healthy environment. Specifically:

- many trade unions have incorporated environmental protection into their statutes, seeing it as falling within their competence;
- according to these trade unions, this commitment must be put into effect by taking on a greater role in corporate decision-making;
- in order to achieve this objective, institutions should be created to make sure worker participation is focused on this issue;
- obviously, one of the instruments that should be promoted for this purpose is collective bargaining. Most trade unions in the countries surveyed voice the need to incorporate green clauses in collective agreements.

## **5.1. Interviews**

The second aspect surveyed by Agreement has been the opinion of the social partners with regard to the role that collective bargaining could play in achieving a more sustainable economy. To this end, the research teams conducted interviews with trade unions and employers' organisations. A willingness to incorporate these clauses has emerged, although in all the countries analyzed the difficulty of converting collective agreements into a good instrument for these purposes is evident.

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<sup>96</sup> Ibid.

Furthermore, these interviews compensated for the difficulty to access the content of collective agreements in those countries where the publication of the result of collective bargaining is not mandatory. We will now summarize the most important results in the countries investigated.

### *United Kingdom*

Following the reforms in the 1980s, collective bargaining has been clearly affected. One should also keep in mind the difficulty of accessing the content of approved collective agreements, given the lack of registers and databases.

Investigating the opinion of negotiators has been useful to understand the direction currently taken by British collective bargaining in relation to environmental issues.

From the interviews with trade unions, it is clear that unions have tried to take advantage of the open character of British collective bargaining to incorporate some aspects of environmental protection. However, they also highlight the significant obstacles that the characteristics of the collective bargaining system pose to this function. Prior to the 2008 crisis, these characteristics, together with higher job insecurity, have led to a reversal of the trend related to increasing worker participation in the company's environmental management.

Environmental protection measures are seen as employment opportunities by workers, so more participation in decision-making is needed aimed at greater business sustainability. Furthermore, it is in the interest of companies to involve employees in the management of the measures to be taken. From a business perspective, it is preferable for this participation to be carried out directly by employees rather than through employee representatives.

The need for an in-depth reform of the collective bargaining system is continuously highlighted in the responses of workers' representatives. This reform should expressly include – among the functions to be performed by collective bargaining – the facilitation of environmentally friendly business management.

However, there is no unanimity in the responses of workers' representatives. In particular, environmental awareness is higher in those trade unions that do not belong to particularly polluting sectors. In contrast, trade unions in polluting industries see environmental protection measures as a possible obstacle to maintaining employment.

Both workers' and employers' representatives think that environmental protection measures are already being negotiated and implemented. However, these measures are seldom integrated into collective agreements.

### *Hungary*

Interviews have also been important in this country, as a result of the limited practical significance of collective bargaining. All the interviewees highlighted the shortcomings of collective bargaining with regard to taking an active role in the adoption of environmental protection measures. Furthermore, they are skeptical about the contribution of collective bargaining in the short term. In their view, this would require a change in the country's production structure.

Employers also maintain that they prefer to take decisions relating to environmental protection unilaterally before consulting what they consider to be poorly trained employee representatives.

### *The Netherlands*

It should be noted that we only were able to interview one business representative, which means that this does not reflect the general opinion as to how employers perceive and act in relation to sustainability. Moreover, the actions taken by FNV, the largest Dutch trade union confederation, are – deliberately or not – extremely visible on online channels, which we will draw on as well to supplement what has been argued during the interview. The employers' side, represented by AWVN, has no official position on environmental sustainability and is, unlike FNV, not outspoken when it comes to sharing its opinion about social and environmental sustainability. For the report that follows, there is thus an imbalance as the information that can be shared and compared on social and environmental sustainability, as FNV's position clearly dominates here. Where possible and necessary, the interviews have been supplemented by or linked to additional information, partly mentioned in other sections of the report, to provide a coherent picture.

There is certainly an awareness of the relationship between labour and environment and the need to engage in social and environmental sustainability either explicitly or implicitly in their work. Looking at the institutional and organisational aspects

of both FNV and AWWN, none of them has specialised staff who is instructed to address social and environmental sustainability. Interestingly, FNV used to have a policy advisor specialised in environmental issues, and also responsible for other areas, until his retirement in 2004 (*milieueconoom*). Initially, this meant that the sectors were expected to take up environmental issues themselves. However, after some years, a policy advisor from FNV, Els Bos, was tasked with addressing environmental concerns within the Federation until her retirement in 2018. The two policy advisors are Marie-Therese Rooyackers and Caroline Rietbergen (who are both from the Federation). Climate change, climate mitigation and adaptation, the circular economy, and sustainable development are core interests of FNV. Although its focus is on employment and income (i.e., the labour market), FNV is active in these areas since they affect, now and in the future, the labour market and the Dutch economy as a whole. For this reason, since 2006, FNV has been involved in the development of these policy areas.

In response to the question as to what extent labour and environment are relevant topics to AWWN, the interviewee notes that they have no environmental officers or advisors. This explains why AWWN provides services to their member-companies. Only if their member-companies need to deal with environmental issues, they will assist them by giving advice. Nevertheless, it should be emphasised that, even though environmental sustainability is not AWWN's core activity, it does not mean that the organisation does not care about this aspect. While initially denying that environmental issues are of immediate relevance to the relationship between the employer and the employee, the conversation has made clear that AWWN is aware of and addresses environmental issues when dealing with their member-companies and in collective agreements. Most importantly, as the interviewee of AWWN told, safety issues are frequently referred to in negotiations. What appears to receive more attention than workplace-related issues is the role of corporate social responsibility (*maatschappelijk verantwoord ondernemen*, MVO), but also here 'serious' environmental concerns are only addressed marginally, as this would be an area where other experts have a role. Nevertheless, FNV's and AWWN's starting points are not aligned here, it seems. This becomes even clearer when considering that FNV stresses the stakeholder position the employee has and which has become more visible in the Paris Agreement as well. As the transition needs to be realised by humans – that is employees – it makes sense to create support among the workforce that will be affected by that (also financially through higher taxation, for instance).

### *Italy*

From the interviews conducted by our research team in Italy, it is once again clear that trade unions are more sensitive to environmental protection issues than employers' organisations, when it comes to consider the role of social dialogue and collective bargaining. Italian trade unions reject the traditional tradeoff between labour and the environment and say that they accept the integration of environmental sustainability into their industrial relations programme. They are also open to non-industrial and sustainable forms of economy, but are of the opinion that their participation in the processes of fair transition has the limit of continuing to depend on the will of the company as an investor, due to scarce public resources.

Again, however, if one takes a more radical approach, many doubts remain as to whether the greener industrial activities resulting from JT can actually suffice to deal with the challenges that climate change involves. This research showed that industrial capitalism is still the dominant economic framework for Italian industrial relations institutions and envisages and justifies their role in JT, whatever confrontational or cooperative their attitude towards companies might be. Technological utopianism perpetuates the illusion of 'infinite growth on a finite planet', and this is somehow problematic as for some capitalism it is simply incompatible with long-term environmental sustainability.

The idea that 'there are no jobs on a dead planet' promoted by the ITUC (2015) and embraced by main Italian unions is also controversial: on the one hand, it fosters long-term industrial relations policies that refuse the trade-off between labour and the environment; on the other hand, the same declaration hides all the limitations that anthropocentric approaches to environmental sustainability involve, including their incapacity to advance systemic alternatives to the current socio-economic model such as collaborative commons, 'ecological' and non-market forms of work in which the contraposition between labour and the environment can be further deconstructed.

### *Spain*

From the point of view of the workers' unions, there is a certain willingness to including contents related to climate change issues. This common position is due to the state of emergency that the world is living. The majority of these issues have been encouraged by the action of the European Trade Union Confederation (ETUC) through mechanisms of social dialogue, consultation and negotiation. The most

representative trade unions in Spain belong to ETUC, and the effect of the European frame agreements has greatly influenced negotiation terms.

According to workers' representatives, the most important aspects to include in collective agreements are related to climate change awareness, climate commitments according to international requirements, collective mobility, occupational health and the rights of the representatives, particularly awarding them a number of hours to discuss climate aspects at work. There are also important questions related to emerging problems – e.g. thermic stress and accidents at work – while the eco-feminist approach should be considered.

As for employers' associations, the great challenge concerning environmental issues is how to deal with them within Spanish companies. The main purposes are waste recovery and the reduction of the consumption of non-renewable, and natural resources. Production has to take into account the necessary steps to comply with the commitments of reducing CO<sub>2</sub> emission; to develop and implement improvement actions necessary for proactive adaptation to environmental legislation of the European Union; to keep environmental management systems up and running, based on rules and audits; to ensure the sustainable development of the company in its environment through collective agreements and mechanisms of participation in the environmental management of the company with universities and NGOs. These are main priorities, especially in tourism, services, and the cement and construction sector in order to promote real change in the production model.

Both employers and workers' associations think that the inclusion of green clauses in Spanish collective bargaining is developing gradually, and it is still in its infancy. Yet this is a fundamental aspect in terms of health and safety at work and from a climate emergency approach. Energy transition is unavoidable and must be considered by society as an opportunity. However, we must also be aware that some sectors will not be able to adapt to the changes and workers may be left in a situation of vulnerability.

### *Summing Up*

The interviews conducted by the research teams point to a change in the attitude of the social partners. The traditional separation between work and environment is no longer seen as insurmountable, especially by the trade unions. Specifically:

- the idea that environmental protection is a social need is shared and, if properly managed, it even becomes an opportunity for employment;
- however, the interviewees voice the difficulty of incorporating measures for environmental protection in collective agreements;
- the reason for this situation, from the point of view of trade unions, is that such measures are still considered to be the exclusive competence of companies;
- trade unions are calling for reforms of legal systems to enable environmental protection measures to be incorporated into collective agreements.

## 6. The analysis of green clauses

We will now analyse the data from the national studies developed within the framework of the Agreement research project. To this end, we believe it is appropriate to carry out a preliminary classification of the possible conventional clauses dealing with environmental issues. These clauses include:

- clauses that establish objectives, whether generic or specific, to be met by companies as economic actors;
- establishment of obligations for companies as employers (e.g. staff training);
- clauses linking green content to the regulation of workers' health;
- creation of specific bodies for the company's environmental management;
- clauses monitoring the application of the commitments made by the company.

### 6.1. General commitments of the parties

As a general rule, the clauses of collective agreements that include general commitments made by the parties to the agreement are the most common within the analysed collective agreements. The most widespread way to formulate these clauses is to present the will of the parties to the collective agreement addressing environmental protection.

In Spain, when collective agreements have opted for their inclusion, these commitments are rather frequent: 'The signatories to this Agreement consider it necessary for companies to act in a responsible and respectful way in relation to the environment, paying close attention to its defence and protection in accordance with societal interests and concerns'.

The same conclusion can be drawn from the analysis of collective agreements in France. Here, most green clauses are mere declarations of principle and references to the environment are often evasive.

As for Italy, purely declaratory clauses predominate among the few collective agreements with an environmental content. However, it is in Hungary that this situation is more evident. Besides being the context in which conventional clauses



for the protection of the environment are rarely provided, they are also generic (they only mention the need for a more sustainable future).

In the Netherlands, despite the fact that the social partners encourage – through tripartite representative bodies – the inclusion of green clauses in collective agreements, the references to this issue remain vague. Looking for this type of clause is quite discouraging, with hardly any reference to social and environmental sustainability.

Finally, we must point out that in the case of the United Kingdom, there is little awareness of collective agreements in the legal system. Specifically, it has been difficult to determine how the environment fits into their clauses. Because of this, it has been the interviews with workers' representatives that led us to assume that the environment is given little room in collective bargaining. This is a consequence of weaker trade unions following the regulatory reforms put in place during the last four decades.

## **6.2. Environmental duties and obligations imposed to the employer**

Regarding the employer's duties laid down in collective agreements, three main aspects should be examined: the new job classification system and the resulting training duties; the impact of environmental issues in remuneration; sustainable transport schemes.

The aim of the provisions on “green job classification” is to supply employees with new ‘environmental’ skills and knowledge in order to improve environment-related performance.

The social partners have realised the need to attract highly-qualified staff, by offering attractive employment opportunities in the field of environment-related research and development driving innovation capacity and technical progress in sustainable industries. They pay attention to high-level and appropriate qualifications, training and lifelong learning initiatives as important requirements for competitive and sustainable production.

As a general feature, the social partners agree that production can only be competitive with a highly qualified and skilled workforce. However, most provisions are formulated in a broad way. In some agreements, trade unions and

employers' associations can certify the skills acquired in informal contexts in writing, with the support of teaching staff. For example, in the Spanish metal sector, there are specific provisions regulating training targeting not only workers' representatives but also the management. Courses are concerned with lifelong learning and occupational health and safety, which increase awareness and reception of environmental practices among workers. A similar approach has been found in some agreements in France.

Some collective agreements have also introduced some changes linking working conditions with sustainability duties and obligations. In this respect, provisions have been included regulating remuneration for workers having special environmental and technical skills.

Environmental concerns have led the signatories to show their commitment helping companies to deal with environmental issues. Sometimes the need to fulfill commitments is pointed out, especially in relation to reducing emissions, increasing the use of sustainable means of transport or re-organising routes through mobility plans.

In some agreements, these proposals are combined with energy-efficient, eco-driving practices, e.g. the gradual implementation of sustainable mobility plans for workers. However, clauses against sustainable mobility can also be found (i.e. in Dutch collective bargaining some clauses are laid down compensating workers using their own car).

The most common provisions in all the legal systems analysed (particularly in Spain, France and Italy) are those establishing training programmes for workers, so the company can reduce the environmental impact of its activity.

### **6.3. Green pay**

One of the conventional clauses with the greatest potential for ensuring environmental protection is that linking the fulfillment of environmental objectives to pay-related aspects. This means offering monetary incentives to those workers who contribute to the company's sustainable development goals. These clauses

would engage the workforce in achieving these objectives, so they would no longer be seen as opposing the employer's interests<sup>97</sup>.

Negotiations on 'green pay' might be regarded as a form of integrative bargaining in principle, since management and workers share a common interest in saving energy and minimizing waste, as they can benefit from their respective savings. Although companies are concerned that added costs will make them less competitive, those related to energy waste can make them less competitive too, and additional costs for green pay might be completely compensated by the financial resources saved. At the same time, green pay can also be seen as a distributive mechanism, as those benefits resulting from ecological conversion and employees' eco-friendly behavior are shared equally. However, once again we see that collective bargaining in the countries examined has not incorporated these clauses properly. In Italy, only 3 out of 1,200 collective agreements established a link between remuneration and fulfillment of environmental objectives, while in Spain green pay is laid down from time to time. Here, some professionals are granted monetary benefits, if they possess skills or carry out tasks facilitating environmental protection and the achievement of sustainability goals. No such clauses have been found in Dutch, Hungarian or French collective bargaining.

#### **6.4. Clauses linking 'green' content to the regulation of workers' health**

Little space is given by labour law to environmental protection, despite the clear connections between the world of work and the natural environment. It is only in occupational health and safety that progress has been made in linking them, though much still needs to be done.

Initially, health was dealt with considering the characteristics of machinery and product. Now, occupational health also involves the notion of the environment in work settings. In this sense, the ILO Convention concerning the Working Environment 1977 (No. 148) established for the first time the relationship between the protection of workers' safety and health and the environment. The attempts to relate healthy working conditions to the environment took a significant step forward with the approval of ILO Convention 155 of 1981. In this convention, the need for

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<sup>97</sup> P. TOMASSETTI, *Wages and the environment*, in N. CEREJEIRA NAMORA, L. MELLA MÉNDEZ, D. ABRUNHOSA E SOUSA, G. CEREJEIRA NAMORA, E. CASTRO MARQUES (ed.), *Health at work, ageing and environmental effects on future social security*, Cambridge Scholars, 2018, 403.

health protection at work to go beyond the mere physical space of the company was promoted even in the title (“Convention on Occupational Safety and Health”).

From the perspective of Community Law, the same approach as that of the ILO was taken, as laid down in Article 153 of the Lisbon Treaty. According to this article: “in order to achieve the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields: (a) improvement in particular of the working environment to protect workers’ health”. At EU level, Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work was adopted. However, as is clear from, for example, Council Resolution of 3 June 2002 drawing up a new Community strategy on health and safety at work, there is no intention in the context of Community law to continue down the road of the ILO Convention 155.

In this case, the legislator draws a distinction between the requirements that the legal system imposes on the employer to provide a healthy working environment and the requirement that business practice should not lead to environmental deterioration, understood in broad terms. This distinction might lead to controversy when safeguarding these legally-protected aspects. This strengthens the view that compliance with environmental protection regulations conflicts with the normal development of the company as an employment agency<sup>98</sup>. In other words, when taking into account adherence to the company’s obligations with respect to the natural environment, this also involves respect for nature conservation, the people affected by its deterioration and workers themselves, although for the latter these obligations only apply within the company. Consequently, the recurrent separation between employment and compliance with environmental regulations would no longer be considered<sup>99</sup>.

However, this distinction only applies in theory, since the boundaries between occupational risks and ecological risks are frequently blurred<sup>100</sup>, given the convergence of environmental and labour law when safeguarding people<sup>101</sup>.

<sup>98</sup> G. BERLINGER, *Conflictos y orientaciones éticas en la relación entre salud y trabajo*, in *Cuadernos de Relaciones Laborales*, n. 3, 1993, 216-217.

<sup>99</sup> S. GONZALEZ ORTEGA, *Derecho a la integridad física y a la prevención de riesgos laborales*, in M. CASAS BAAMONDE, F. DURAN LOPEZ, J. CRUZ VILLALON (coord.), *Las transformaciones del Derecho del Trabajo en el marco de la Constitución Española*, La Ley, 2006.

<sup>100</sup> M. RODRIGUEZ-PIÑERO Y BRAVO FERRER, *Trabajo y medio ambiente*, in *Relaciones Laborales*, 1995-II, 2.

<sup>101</sup> P. STEICHEN, *Travail et environnement: le risque écologique causé par l’entreprise au plan communautaire et interne*, in *Revue Droit et Ville*, 2009, n. 68, 75.

“From a mere prevention logic, an absolute separation (or even a disconnection) cannot be seen among different risk management mechanisms. When examining environmental problems, a conceptual framework must be implemented which allows pointing out not only surrounding environmental issues, but the inner layers of the societal structure. It is not so much a matter of an unfeasible and undifferentiated merging of disciplines, but rather the articulation of a number of common principles, rules and techniques ensuring integral risk management. This is to improve the efficiency of prevention instruments, because fragmenting risk management means contributing to its poor effectiveness. Therefore, employees should be directly engaged in environmental risk management, both as workers and citizens. But public interest legitimizes an integral risk management in organizations”<sup>102</sup>.

In some of the legal systems surveyed, these links have led to the adoption of rules that seek to bring together the two areas. Specifically, in French law, the approval of so-called Grenelle Law (Law N. 2009-967 of 3 August 2009) promoted convergence of environmental and labour law, prompting the company to inform and involve workers’ representatives in all matters concerning risks related to the external environment. The starting point of this new approach has been Bachelot Act of 30 July 2003 – passed as a consequence of the AZF accident – through which a closer link was created between occupational and environmental safety. This provision promoted the overall management of ‘mixed risks’, stepping up the role of workers’ representatives in companies carrying out activities potentially dangerous for the environment.

There have also been efforts to move away from the rigid separation between internal and external risks in the Italian legal system, an example of which is Decree no. 81/08.

More generally, the clauses of the collective agreements concluded in the countries examined provide for a distinction between the internal and the external environment. Worker protection is considered in relation to in-company risks. While not motivated, this distinction is still widespread in the countries surveyed.

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<sup>102</sup> J.L. MONEREO PEREZ, *Medio ambiente de trabajo y protección de la salud: hacia una organización integral de las políticas públicas de prevención de riesgos laborales y calidad ambiental*, in *Relaciones Laborales*, 2009, n. 10, 14.

### **6.5. Collective agreements regulating the establishment of bodies tasked with the company's environmental management**

Collective agreements can establish that existing bodies – or bodies purposely set up – promote the participation of workers' representative in the management of environmental protection measures. In the countries scrutinized, works councils do not have the power to negotiate or deal with environmental protection, though no restrictions are expressly provided to this. Consequently, it will be up to collective bargaining to assess this possibility. This research shows that in a limited number of cases, ad-hoc bodies have been created through collective bargaining with the aim of managing environmental issues. For example, in France, in spite of conventional freedom, no collective agreement concluded at sectoral level has dealt with this issue. Conversely, those concluded at company level at least establish the rights of workers' representatives to receive information on the company's environmental management.

In some cases, representative bodies set up commissions or advisory bodies in charge of CSR or sustainable development. An example of this is the Committee on Sustainable Development, Social and Environmental Responsibility and Safety established within the Total Group's European Works Council, which promotes exchange of views with management on the following issues: "Sustainable Development, Social and Environmental Responsibility, Safety and Health"; or the Committee on Social Responsibility, established within the BHV EXPLOITATION<sup>103</sup> working committee, whose purpose is "to discuss the social, environmental and economic concerns related to the company's activities and to inform the elected representatives about the most ethical and sustainable practices applied by the company, in order to contribute to the challenges of sustainable development". It remains to be seen if participation is effective in practice and leads – in addition to information exchange – to genuine consultation procedures.

In the Italian case, collective agreements in the chemical and pharmaceutical sector encourage the empowerment of workers' representative when it comes to safety, health and the environment. In the cement sector, a joint national committee was set up with competence in this area. However, in the latter case, this is also done to legitimise company policies on the use of non-conventional fuels.

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<sup>103</sup> Accord d'entreprise relatif au fonctionnement des comités sociaux et économiques et à la mise en place du comité social et économique central – BHV Exploitation – 2 juill. 2018.

Perhaps the legal system where the attribution of this competence to workers' representatives has been most evident is the Spanish one. Here, collective agreements exist defining 'delegates with expertise on environmental issues'. The collective agreement concluded by 'Ara Vinc, SL'<sup>104</sup> makes provision for the creation of these professionals, who are selected among the members of works councils. Their functions include: (1) Collaborating with company management to improve actions promoting environmental protection; (2) Promoting and encouraging the cooperation of workers in compliance with environmental regulations; (3) Carrying out follow-up work on compliance with environmental regulations, as well as environmental policies and objectives established by the company; (4) Receiving information on the implementation of new technologies from which environmental risks could arise, as well as on the development of environmental management systems; (5) Proposing the adoption of measures aimed at reducing environmental risks and improving environmental management; (6) Collaborating in the development of training actions on matters related to the company's environmental obligations; (7) Receiving information about the environment that is given to workers' representatives.

However, these tools promoting participation in Spanish collective agreements are not widespread. In a similar vein, the current instruments in place in the Netherlands are sufficient to ensure participation in environmental matters. Yet they have limited use in that environmental protection has a long-term impact, while the social partners solve work-related problems in the short term. In spite of this, here collective agreements exist which establish safety committees with powers in the area of environmental protection. The UK constitutes a special case. The interviews conducted by our research team reveal that companies refuse to involve employee representatives in the company's management of environmental issues. They wish employees to participate, not through trade union involvement. This may therefore be the reason why no examples of workers' representatives involved in environmental issues can be found in this country.

## **6.6. Clauses monitoring the company's commitments**

In order to ensure compliance with the commitments established in collective agreements, monitoring tools must be provided. The exceptional nature of the environmental clauses applying at company level makes implementation and

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<sup>104</sup> Agreement of 'Ara Vinc, SL' (code 08100512012013).

monitoring tools likewise rare. Commitments related to environmental issues laid down in collective agreements are also exceptional and are frequently declarations of principle. In those cases when they are nicely defined, they are not accompanied by instruments enabling for control and enforcement. When companies voluntarily adhere to external assessment mechanisms of environmental commitments, this is done without promoting involvement of workers or their representatives. In other words, in some collective agreements, especially in Spain, the company's voluntary participation to external audits is envisaged, but always without workers' engagement.

### *Summing up*

- Despite obvious differences between the legal systems examined, the conclusions reached concerning the inclusion of environmental provisions are practically the same.
- There is limited use of environmental clauses in collective bargaining. There are very few collective agreements tackling environmental degradation seriously or seeking to reduce the environmental impact of business activity.
- When collective agreements include environmental clauses, they are rather generic. They simply acknowledge the need to act against the environmental crisis, but they do not include mechanisms to fulfill this objective.
- In general, there seems to be a divergence between the change in attitude of trade union organisations towards the environmental crisis and the conventional lack of acceptance of clauses aimed at dealing with it.
- Innovative clauses are rare, as are those linking wages to increased environmental protection. Likewise, a clear separation exists between the internal and external environment.
- Collective bargaining fails to establish bodies promoting workers' participation in environmental decision-making. This is due to the fact that the company still considers environmental management as falling within its exclusive competence. Some reluctance thus exists to create bodies that undermine its authority on this matter.



## 7. Corporate Social Responsibility as a substitute for the collective agreement

The limited presence of environmental protection in collective bargaining – which is binding on the company – means that the alternative left is corporate social responsibility (CSR). From the point of view of Community Law, a clear example of this would be the Green Paper for the promotion of a European framework for corporate social responsibility. In this respect, it is important to highlight how the European Union itself has gone down the same road. Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) pays attention to the involvement of employees in environmental management. The text of the scheme stipulates that employees shall be involved in the process aimed at continually improving the organisation's environmental performance. For this purpose, appropriate forms of participation should be used, such as the suggestion-book system or project-based group works on environmental committees. Organisations shall take note of the Commission's guidance on best practices in this field. Staff representatives shall also participate, where requested. In other words, participation powers are only granted to employee representatives in cases where participation is of no practical significance.

The idea of corporate social responsibility has expanded dramatically in both academia and the media over the past two decades<sup>105</sup>. Thus, associations and coordinators have been created with this social purpose, congresses have been organised in different disciplines to address its study and, finally, a multitude of publications have been released that analyse CSR from the perspective of our discipline<sup>106</sup>. For example, the European Commission's Green Paper on Promoting a European Framework for Corporate Social Responsibility, of 25 July 2001, stresses the need to reward companies that protect the environment<sup>107</sup>. So it is reward and not demand that is given relevance when promoting environmental

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<sup>105</sup> T.G. PERDIGUERO, *La responsabilidad social de las empresas en un mundo global*, Anagrama, 2003, 139.

<sup>106</sup> R. TASCÓN LÓPEZ, *Aspectos jurídico-laborales de la Responsabilidad Social Corporativa*, CEF, Madrid, 2008.

<sup>107</sup> F. ALONSO SOTO, *Estrategia europea de la responsabilidad social de las empresas*, in *RMTAS*, n. 62, 79; M. RODRÍGUEZ-PIÑERO Y BRAVO FERRER, *Una nueva iniciativa comunitaria sobre responsabilidad social de las empresas*, in *RL*, 2006, n. 11, 1.

protection. This report therefore emphasizes the need for companies to voluntarily adopt measures aimed at reducing the environmental impact of business policies<sup>108</sup>.

Through Corporate Social Responsibility (also called ‘corporate social responsibility’ or ‘business ethics’) – which could be made explicit in Codes of Conduct – such mechanisms could be implemented<sup>109</sup>. From a terminological point of view, the European Commission defines it as “the voluntary integration by enterprises of social and environmental concerns in their business operations and in their relations with their stakeholders”<sup>110</sup>. However, it is the autonomy of will of these companies that will create codes of conduct and conditions for their compliance. In short, on the one hand, this instrument does not have a binding character – so it is distinct from some aspects of labour law and their mandatory nature<sup>111</sup>. On the other hand, and considering this inability to increase business obligations in relation to the environment, businesses are expected to act responsibly when it comes to implementing environmental protection measures. It sounds like the company could apply voluntarily what it generally refuses to do under regulatory provisions.

In short, CSR is not useful when used to increase the protection of the external environment with respect to the rules that impose obligations on companies. CSR also plays a purely formal role in this area – though it positively affects company reputation – and is illustrative of the risks arising from making use of this concept in disciplines like labour law, which entails greater levels of enforceability.

Yet some divergent views can be seen in relation to this aspect. In the case of France, the importance that CSR might have has been highlighted, especially after the conclusion of the interprofessional agreement in 2017 by the most important employers’ organizations and trade unions in the country. It is stated that its relevance cannot be downplayed. This is so because CSR makes workers aware of

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<sup>108</sup> Cfr. A. MAZEAUD, *Environnement et travail*, in *Pour un droit commun de l’environnement*, Dalloz, Paris, 2007, 305.

<sup>109</sup> M.E. LALOMA GARCIA, *Inversiones socialmente responsables: la gestión ética frente a la discapacidad y el empleo*, in *Documentación social*, 2003, n. 130, 109-128; I. BALLESTER PASTOR, *El distintivo de calidad empresarial como manifestación de la responsabilidad social corporativa y su repercusión en las prácticas empresariales defensoras de la igualdad de oportunidades. Estudio de Derecho Internacional y comunitario*, in *RMTAS*, 2007, n. 67, 175; J. ARAGON MEDINA, F. ROCHA SANCHEZ, *La dimensión laboral de la responsabilidad social de las empresas*, in *Cuadernos de Información Sindical*, Fundación Primero de Mayo, 2005.

<sup>110</sup> *Conclusiones de TECOMED 2006*, Estambul, 13-14 November 2006.

<sup>111</sup> J.M. CUEVAS SALVADOR, *La responsabilidad social de las empresas. Contribución para el grupo de trabajo sobre responsabilidad social*, in *Revista del Instituto de Estudios Económicos*, 2002, n. 4, 3-14.

adopting eco-responsible measures and can anticipate clauses laid down in collective agreements at a later date. In other countries, there is a trend towards incorporating CSR commitments into collective agreements (e.g. Italy).

## 8. Conclusion

This research analysed several models of collective bargaining in different jurisdictions, the regulatory or contractual effectiveness of collective agreements, the complex structure of collective bargaining, and different actors with negotiation powers. This research has been carried out considering that collective agreements are appropriate instruments for the bilateral negotiation of measures to protect the environment, given the freedom to negotiate their terms in all the legal systems scrutinized.

Despite their potential and the change in workers' and employers' attitude towards environmental protection, the national case studies have concluded almost unanimously with a pessimistic view on the effectiveness of collective bargaining when protecting the environment. Specifically:

- the number of collective agreements that incorporate environmental clauses is limited, though difference exists between productive sectors;
- when environmental clauses are in place, in most cases they tend to be purely formal declarations and little commitment emerges to apply them;
- research stresses the importance of specific environmental protection bodies set up within the company. However, collective agreements that provide for their establishment are few and far between;
- there are hardly any clauses introducing assessment mechanisms in relation to the company's commitments made in collective agreement concerning the reduction of the environmental impact of its activity;
- in most countries, the new legal regime of the negotiation systems approved after the 2008 crisis has not brought about improvements;
- a major danger has been identified: in some cases, the lack of a balance among negotiators may turn collective bargaining into an instrument of legitimization of corporate decisions that protect the environment only in formal terms.

Some common features exist linking all the legal system analyzed, including the decentralization of collective bargaining, the attribution of negotiating powers to new, non-unionized, actors or the reduction of the effectiveness of collective agreements. In some countries, this regulatory evolution has caused a significant reduction in bargaining coverage, which can also jeopardize the application of green clauses negotiated in collective agreements.

Beyond the institutional and legal aspects of collective bargaining in different countries, the main narrative standing out of this project refers to a complex and controversial idea of justice. All agree that transition to a low-carbon economy should be just. Nobody argues in favour of “unjust” transition. In all countries, just transition is on top of the social partners’ agenda: we find examples of social dialogue and policy initiatives with clear commitments on the just transition, how to achieve it and how to make labour and environmental sustainability convergent.

Social partnerships on these aspects include the involvement of workers representatives in environmental decisions or the integration of environmental policies with occupational health and safety. Other examples include the negotiation of pay raises linked to green targets, such as energy efficiency and conservation, or the promotion of functional and geographical mobilities for workers involved in restructuring for environmental reasons. The negotiation of re-skilling, redeployment and early retirement plans to deal with job displacement is another example, along with collective bargaining measures to make job classification systems more respondent to the green jobs labour market.

While everyone agrees on the need for a just transition, the idea of justice on the ground, is still open to debate and conflict. Central policies on just transition and sustainable development do not necessarily translate into coherent actions at local level, which is the dimension in which transitional dilemmas take place. Actually, unions responses to environmental dilemmas swing between two contrasting patterns: One in which growth, income and job protection still prevail over environmental and local community interests in contiguity with industries (ToP); The second pattern is the one in which social partners try to advance the (controversial) ideals of JT and sustainable development in parallel with defending jobs and decent work. What they produce in order to overcome the trade-off between labour and the environment, is not a coherent and uniform logic of collective action but sets of policies and practices arising out of different attempts to face the dilemmas that transitional practices involve depending on costs and structural constraints.

Most of the story is indeed about distributional conflicts. In a market economy, “the cake” must be divided and this process generates distributional conflicts between capital, labour and the environment. Things get more complex since “the cake” cannot grow anymore: global warming and climate change demonstrate that the idea of infinite growth on a finite planet is illusory.

When it comes to the role of industrial relations in the just transition, growth is still the black beast for trade unions. On the one hand, growth is associated to more industrial activities, pollution and environmental degradation. In this respect unions seem to be aware that infinite growth on a finite planet is not sustainable anymore. But they also rely on the savior role of technology and apart from marginal radical positions, they believe that growth can be decoupled from environmental degradation. On the other hand, growth increases capability and freedom of choices: it reduces dependency and subordination. It comes with no surprise that hard transitional cases take place in depressed areas and sectors with low added value and growth capacity, where monopsonist labour markets preclude any alternative option to plant closure or continuation of industrial activities dangerous to health and the environment. In these contexts, just transition dilemmas become more accentuated, unions are on the defensive and Treadmill of Production is the main logic of collective action.

Even if unions in principle refuse the job vs environment blackmail and accept the integration of environmental sustainability in their agendas, they are still dependent on firms' monopsonist power when private investment is necessary to close the transition, especially if public resources are unavailable or insufficient. In these cases, partnership with firms is seen as the best road to combine environmental and labour protection. While heavy public debt and low capacity to attract investments make transitional options tighter, when private investments for the green economy are available, institutional cooperation between firms, unions, civil society and public authorities stands out as an enabling factor for a just transition. Mature industrial relations institutions, governing effective transitional labour markets, can reduce societal and labour vulnerabilities, increasing workers' independence from coal and other highly intensive industrial activities.

