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Employment Relations and Restructuring Management in the Banking Sector in Luxembourg

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Abstract

This article discusses how restructuring during the crisis has affected employment relations in the banking sector in Luxembourg. The crisis has reinforced the impact of a series of exogenous factors influencing Luxembourg's banking sector and its continental employment relations system. These include the automatic exchange of information, rapidly-evolving European and international regulation and the resulting stronger compliance of banks, the mobilisation of external expertise by social partners, as well as stronger skills and professional requirements. It is argued that although these factors challenge the consensus-based and neo-corporatist employment relations framework, coordinated decentralization with strong government involvement in tripartite bargaining arenas has meant that the functioning of the employment relations system has been maintained. Collective bargaining has contributed to a socially-responsible restructuring in the banking sector through the anticipation and management by consenting to legally-based labour agreements and certified training for dismissed employees, as well as impact management through implementing transition support instruments.

Keywords: collective bargaining, restructuring, Luxembourg, social partners, banking sector

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Introduction

The banking sector in the European Union (EU) employs over four million people. It has been hit dramatically by the international financial crisis, as well as being affected by new European and international regulations such as the Basel III Accord in 2010 on strengthening regulation and supervision. The financial crisis, which started in 2008, has profoundly affected the pace and direction of restructuring in banks, with banking activities facing international pressures. Between 2008 and 2010 alone, around 250,000 jobs were lost in the EU-27 in the banking sector itself, representing a 6% fall, compared to the 2.4% decrease in total employment over these two years (Eurofound 2011). On the job quality side, employees in the sector have seen their status and job characteristics change considerably. Working for a bank was once a 'job for life' with high prestige, a distinct status, job security, as well as good job advancement prospects. Banks were perceived as solid reliable organizations where the lack of change was a touchstone of reliability (Jefferys 2010). However, since the onset of the crisis, this reliability has been substantially undermined by a series of challenges impacting financial industries around Europe.

These challenges have spill-over effects on employment relations systems and structures in the sector. Among the factors challenging the dynamics of collective bargaining are the implementation of new and rapidly evolving regulations requiring stronger compliance and expertise at bank level (including for example the automatic exchange of information between member states), the restructuring of the global value chain of back-office and other activities, as well as new skills requirements for adapting professions to internal reorganization and the development of new bank activities.

In Luxembourg, the framework of employment relations is still not sufficiently studied. But, it serves as a laboratory for analysing how the dynamics of globalisation have shaped collective bargaining arrangements since the onset of the crisis, and to assess how the employment relations system has contributed to more socially-responsible restructuring in the sector. After the historical process of deindustrialization linked to the decline of the steel sector, which had previously dominated Luxembourg's economy, the financial sector emerged as the principal generator of GDP and employment. The sector is characterised by strong multi-level and law-embedded collective bargaining structures. Formal and informal instruments are mobilised within these bargaining structures. These instruments stem from the strong interaction between the actors involved at the various levels of bargaining. Given the small size of the country, regulatory and negotiation pathways are shorter and resources pooled. This interaction between actors has specifically occurred within law-based tripartite institutions with strong government involvement: for example the tripartite Economic and Social Committee *(Conseil économique et social)* with three government representatives.

This institutional framework has allowed for the common identification of interests and priorities at the national and sector level, and a sharing of expertise (CES 2014). This is also true for the main tripartite instruments, the Tripartite Coordination Committee *(Comité de coordination tripartite)*, created by law in 1977. Tripartite bargaining arenas also reveal underlying power relations within the bargaining framework: while the government continues to gain a coordinating foothold in the bargaining processes, social partners impinge on the policy formulation process by injecting sector-level interests into national policy-making.

Nonetheless, the banking sector has experienced increasing pressure from international and EU regulation, as efforts were mounted to tackle the financial crisis more efficiently and from a common EU perspective. The resulting process of compliance with regulation has strained the national employment relations system, by putting pressure on strategies mobilized to defend national economic interests. In the confrontation process by which these exogenous pressures impinge on the employment relations system, questions arise concerning: the definition of socially-viable solutions (for a debate on socially responsible restructuring, see Forde et al. 2009); the processes of restructuring in a sector marked by a culture of secrecy; the international competition between countries; and decisions taken abroad in the headquarters about what instruments to mobilise.

The term restructuring has numerous definitions (Bergström 2014). In this article, we define the process of restructuring as the modification of a company's workforce, both quantitatively (in terms of the number of jobs) and qualitatively (in terms of skills and qualifications), following changes in a company's structure, organisation or production processes (European Commission 2008). One of the main features of the European Social Model is the understanding that adaptation to economic change should be based on the joint efforts of different stakeholders, including for example companies, trade unions, governments, local authorities, and the objective to seek solutions on the basis of dialogue, in order to prevent negative consequences for people and regions.

In line with this understanding, social dialogue structures and practices have succeeded in mitigating some of the negative restructuring effects on employees in several EU countries – including Luxembourg – at sector and/or enterprise level. In the light of this, the impact on the collective bargaining system in Luxembourg is seen most tangibly in the underlying bargaining processes of restructuring management in the banking sector. The hypothesis in this article is that coordinated decentralisation of bargaining with strong government involvement in tripartite bargaining arenas has managed to maintain a functioning employment relations system. This has occurred despite factors driving restructuring which have challenged the consensus-based and neo-corporatist employment relations framework implemented in Luxembourg since the 1970s and 1980s. It is argued that coordinating collective bargaining in Luxembourg unveiled two major aspects of the national employment relations system. First, it contributes to socially-responsible restructuring management on the condition that the social partners involved identify the complexity of challenges affecting the sector when negotiating within operational collective bargaining structures. Second, collective bargaining is given a more social nature when employment relations strategies are positioned, so that they allow for the implementation of an interconnected process: this process emphasises *restructuring anticipation* through, for example, the establishment of monitoring instruments and tools for predictability at the sector level; *restructuring management* through consensus and law-based collective labour agreements and certified training for employees dismissed, and *impact management* through, for example, the implementation of transition support instruments.

The article is structured as follows. The first section provides a succinct review of the literature on existing debates in the employment relations literature. The second section presents the methodology of the research. The third section assesses the dynamics of restructuring at the sectoral and enterprise level, in terms of accompanying collective bargaining with the objective to focus on socially responsible restructuring. The fourth section analyses the factors driving restructuring, and the restructuring process in the banking sector. The last section concludes by focusing on the role of collective bargaining related to restructuring and the adaptation of Luxembourg's social model.

1. Analytical Framework

In this part, we first examine the trends of decentralization of collective bargaining and the changes within the context of the crisis. Second, we discuss the variety of capitalism (VoC) approach that allows observation of employment relations models, but at the same time unravels limitations in the analysis of in-country differences among sectors. Third, we present the specific developments in Luxembourg in order to develop and reinforce our argument.

Restructuring in the context of the current crisis has caused social partners to act in a new way in order to ensure socially-responsible outcomes. However, the existence of strongly developed social dialogue structures and practices plays a role as an institutional anchor to mitigate negative consequences for employees. There is evidence in Europe that multi-employer bargaining arrangements bring benefits for the state, and entail advantages for the bargaining parties (Sisson 1987), by delegating the regulation of key terms and conditions of employment to private actors and by helping to maintain social peace (i.e. via extension mechanisms). However, there is agreement in the employment relations literature that collective bargaining systems in Europe have experienced continuous decentralisation over the last decades (Marginson 2014). There are different factors operating at the heart of this decentralisation process such as the pressure for labour market liberalisation, arising from employers or from international institutions such as the European Union.

According to Traxler (1995), there are different patterns in this decentralisation process within the different employment models in Europe: ‘organised’ decentralisation within parameters established at higher national and sector levels; and ‘disorganised’ decentralisation whereby multi-employer bargaining is being repealed. Marginson (2014), for example, stresses that for Western Europe the first form of decentralisation in Traxler’s categorisation has predominated (with the significant exception of the United Kingdom). In the context of ‘organised’ decentralisation during the last decade, some issues such as employment take priority over wages and conditions as in the case of Germany (Bispinck, Dribbusch 2011).

Furthermore, there is growing evidence that in-country variation is increasing because of the departure from ‘universal’ standards specified in collective labour agreements at the sectoral level. Since the beginning of the crisis, there has been a large literature on its impacts on the collective bargaining in European countries, sectors and enterprises (Brand, Traxler 2011; Glassner, Keune 2012; Marginson 2014). In their comparative study of the German banking and automotive industries, Haipeter, Jürgens and Wagner (2012) conclude that decentralisation has increased along with strong coordination in the German continental employment relations system. Relevant for Luxembourg’s banking system is their observation that an increasing number of employees in banks has been falling out of the coordinated employment relations system in the case of outsourcing activities, which are no longer covered by collective labour agreements.

One of the important questions raised in this literature is how exactly the different employment models are impacted by crisis effects. The varieties of capitalism approach has become a key institutional framework for the study of comparative capitalism, following the publication of Hall and Soskice's work (Hall, Soskice 2001). However, other studies on employment regulation have observed increasing within-country variation. For example, Katz and Derbyshire (1999) examine changes that have occurred in employment practices in seven industrialised countries since the 1980s, with a focus on the automotive and telecommunications industries and identify a trend of growing divergences within national employment systems combined with striking commonalities (convergence) across countries that are very different historically and economically. In the continuation of this debate, Bechtel, Brandl and Meardi (2012) challenged the concept of a 'national model' of employment relations, implying coherence and homogeneity within countries, as much as geographical typologies of employment relations. They conclude by pointing out the theoretical and methodological implications of a focus on the sector as an important level of analysis. This perspective with a focus on the national and sector level is relevant for the Luxembourg case study in this article, as the boundaries of bargaining arenas that are constitutive elements of the employment relations model and where priorities are displayed, are not always to be demarcated.

In a broader perspective, the banking sector in Europe has been seriously hit by the current financial and economic crisis. Many large and small banks have reconsidered their business model and operations. The effects of processes of restructuring on employment were examined in different European countries (Eurofound 2011), demonstrating evidence of the increasing casualisation of banking jobs, at least in some countries in Europe (Jefferys 2010), but also beyond Europe at the international level (Sproll 2013). Even if collective bargaining in the sector in most of Western European countries is very high (Adam 2011), it is considered to be under threat, including in Luxembourg. Not only are jobs endangered, but collective bargaining is undermined by different processes. For example, the growth of variable pay schemes appears to threaten collective approaches to pay determination, which are based on standardisation and centralisation (Arrowsmith, Marginson 2011), continuous outsourcing, etc. But, even if these threats are present, the employment relations system in the sector is able to act as an anchor for the preservation of employment and working conditions.

In addition to this recent research, evidence has revealed that concrete union strategies at the workplace in cases of restructuring are shaped both by institutional configurations such as employment relations systems, as well as by specific relations between the management and labour at workplace level (Pulignano, Stewart 2013). This was confirmed by Zagelmeyer in recent research on the banking sector within coordinated bargaining structures (Zagelmeyer 2013). He points out that 'company-level social partners, supported by public policies, were able to avoid redundancies and keep employees in work, while helping the company to survive' (Zagelmeyer 2013). From this perspective, we consider that the national restructuring regimes – defined by Gazier (2008) and Bergström (2014) as a combination of law-based or informal adjustment mechanisms and measures controlled or adopted by a particular group of actors – are not able to explain all sector-level developments. Sector-level specifics interplay with these regimes in order to produce given outcomes, for example that in some sectors such as banking, restructuring regimes could involve multiple tools and measures in the restructuring process, while this is not the case in others (e.g. geographically-tied services such as catering, cleaning, etc.).

For Luxembourg, in particular, manifestations of the employment relations system are tangible at the sector level, as for example in the banking sector studied. But, they are not manifested in the same way in the entire national economy. Developments in employment relations in the financial sector have occurred against the background of the de-industrialisation of the 1970s and 1980s (Clément 2008; Trausch 2012), as Luxembourg underwent the structural shift out of the steel sector as its prime economic activity, and into the development of an international financial sector. In the small body of existing literature, Luxembourg's employment relations system is portrayed as being based on consensus-seeking strategies serving to preserve shared interests. The country's employment relations system is also perceived as having limited economic and administrative resources, thus providing only restricted room for manoeuvre in negotiating arenas (see Thorhallsson 2000; Falkner, Leiber 2004).

There has furthermore been a progressive shift from wage negotiations as the prime bargaining priority to issues of employment preservation and corporate competitiveness. Although the neo-corporatist arenas still provide coherence to the employment relations system (Streeck 1992; Hassel 2009), the employment relations system has moved towards a form of 'competitive' corporatism (Rhodes 2005). Other authors put forward a larger definition of the employment relations system that goes beyond socio-economic aspects, highlighting a socio-cultural dimension with an involved civil society (Zahlen 2001).

This process of stronger interaction and reorientation of bargaining issues also means that collective bargaining increasingly requires specific expertise and resources, despite the fact that unions are not always able to mobilise them. This could threaten the sector model of employment relations in the long term, as *ad hoc* initiatives are mobilised as solutions, for example through local agreements in case of restructuring. For the restructuring processes in particular, a framework of actors is activated when required, though it often lacks legitimate bargaining powers.

The main argument of this article is that collective bargaining in Luxembourg is under pressure and facing change, following the decentralisation trends identified in countries manifesting the continental model of employment relations. However, within particular sectors like banking, this change is limited and mediated by the reformulation of activities in the sector, the coordinating role assumed by government, the identification of shared interests at various levels of bargaining, and by the mobilisation of formal and informal collective bargaining practices.

2. Methodology

The research for this article draws on results from the European research project *EUROSOFIN – Social dialogue in the financial sector in Europe: contribution to anticipation and restructuring*. Co-financed by the European Commission between the 1 December 2013 and the 28 February 2015, EUROSOFIN focused on banks and studied the mechanisms of social dialogue in five European financial centres (London, Luxembourg, Vienna, Paris and Bucharest). The project adopted a qualitative approach combining: semi-structured interviews in the participating countries of Austria, France, Luxembourg, Romania and the United Kingdom; desk research; and exchanges with researchers, legal experts and practitioners through the organisation of national seminars in Luxembourg, Vienna, Paris, and Bucharest.

In Luxembourg, 14 semi-structured interviews with representatives of sector unions, sector employers' associations, enterprise level unions, human resource managers, as well as experts from the banking sector and legal experts, were conducted anonymously between March and October 2014. The interviews were transcribed and analysed thematically. Preliminary results were discussed in October

2014 during a national seminar in Luxembourg involving stakeholders from the sector, as well as researchers and experts from the project[1].

3. The Importance of the Banking Sector in Luxembourg

Since the crisis in the steel industry in the 1970s, the financial sector[2] has been considered the most crucial economic sector in Luxembourg. Historically, the predominance of the sector originated in the 1960s with the emergence of the Eurodollar markets and the growing presence of American, German and Scandinavian banks in the country. From a national perspective, the sector was nurtured by the introduction of simplified legal frameworks that mainly reinforced the status of private and other banking activities. From an international perspective, Luxembourg's position as a financial and investment centre drew on the presence of major international banking institutions, such as the European Investment Bank (Michaux 2013) and more recently the European Stability Mechanism.[3] The motives of international banks to move their headquarters to Luxembourg have been contested in the international press, as Luxembourg is often portrayed as a tax haven. But, Schultz and Walther (2010) provide a more nuanced argument, by identifying several factors driving the development of the sector, including: the simple and favourable legal and regulatory environment, easy access to the European market, and access to a skilled and multilingual labour force.

Specialised international consulting and law firms set up branches because the requirements of changing legal frameworks became a recurring issue on the agenda. The spill over effects from financialisation processes led to an increasing impact of this sector on other sectors: new banks and mostly niche activities were attracted as the financial sector accumulated strong expertise and required infrastructure (Dörry, Musil 2015). The importance of the sector was further reinforced by the liberalisation

1 Final results were presented at the international EUROSOFIN conference held on the 11 February 2015 at the European Trade Union Institute in Brussels.

2 In this section, we consider data about the financial sector in order to contextualise the banking sector.

3 http://www.esm.europa.eu

and internationalisation processes of capital markets, culminating in the success of private banking activities (Pieretti et al. 2007).

The financial sector in Luxembourg includes a banking sector with 149 banks in 2014, an insurance sector with 92 branches, and a fund industry with a total of 3,881 investment funds. Since the 1970s, the sector has constituted a means of preserving high employment levels and creating new and in particular high-skilled jobs, through the development of niche products, such as those derived from Islamic finance. Employment creation in the sector has been a key national priority up to the present, as growing joblessness in Luxembourg has become worrying, given that the country's unemployment rates were among the lowest in Europe for a long time.

In 2014, the financial sector contributed 38% of Luxembourg's GDP, and to one third of state revenues. 17% of the country's jobs (more than 65,000 jobs) are attributed to the financial sector. Related supporting activities defined by law (known as professionals of the financial sector or *professionnels du secteur financier* – PSF), as well as international consulting firms acting as lobbyists and experts of the finance sector contribute to additional employment in the sector. Sector employment is also highly international with over 77% of cross-border workers and foreign residents.

Table 1. The banking sector in Luxembourg

	Number of banks	Total assets (EUR billion)	Total staff
2003	169	656	22,529
2004	162	695	22,554
2005	155	791	23,227
2006	156	840	24,752
2007	156	915	26,139
2008	152	931	27,205
2009	149	793	26,420
2010	147	762	26,254
2011	143	793	26,695
2012	141	735	26,537
2013	147	713	26,237
2014	148	753	26,151
2015	143[a]	757	25,844[b]

[a] October.

[b] September

Source: Commission de Surveillance du Secteur Financier CSSF (2015), KPMG (2014), compiled by the authors.

The sector remains the most important employment generator in Luxembourg. Even if the number of 'social plans'[4] or redundancy schemes increased during the crisis, there were only 25 such schemes in 2009–2010[5]. As a result, Luxembourg avoided the mass redundancies of other European financial sectors. This points to the broader paradox on Luxembourg's employment market, namely that new jobs are created while restructuring is taking place (see Thill, Thomas 2011).

The international financial crisis had a strong impact on Luxembourg's financial centre (OECD 2010). This impact first became tangible with the near collapse in autumn 2008 of the DEXIA, ING and FORTIS banks. Their demise was avoided by considerable government capital injection from Luxembourg and the neighbouring countries, followed by internal restructuring processes. This led to the awareness that their potential collapse was both disastrous and illustrative of the sector's volatility in terms of potential rapid revenue losses, as experienced by the sector in 2008, and resulting mass redundancies. Nonetheless, the sector has been less hit by the crisis than other European finance sectors and recovered at a more rapid pace. The crisis led to assets dropping after 2008 from €931 billion to €791 billion in 2009. Assets have been increasing progressively since 2013, while the number of banks has also been rising, having remained stable throughout the crisis as departures/closures were compensated by the opening of new international banks.

4. Collective Bargaining in the Banking Sector

In terms of the organisation of collective bargaining in the sector, banking in Luxembourg is characterised by a well-established and law-based collective bargaining system. The banking sector has enhanced and preserved a degree of organised multi-level coordination. Also, from a 'competitive' corporatism perspective, it has gone through an expansion of the bargaining agenda to include, for example, training

[4] 'Social plans', or redundancy schemes, are an important element of the law-based procedure of collective redundancy that a company must apply if it intends to dismiss more than 7 employees. It is generally negotiated between staff representatives and the management with the objective of avoiding mass dismissals. Measures such as part-time work, part-time unemployment or internal and external redeployment are often mobilised to avoid these. For persons dismissed, social plans provide measures to help, such as mobility grants or compensations.

[5] There were 44 social plans signed in the 2008–2013, see http://paperjam.lu/news/banques-44-plans-sociaux-en-5-ans (last accessed on 24 August 2015).

issues to enhance job employability and job activation in a competitive environment. At the national level, tripartite consultative instruments such as the Economic and Social Council *(Conseil Economique et social)* constitute broader arenas of expertise-sharing and bargaining while at the sector level mutual interests are defended by representative trade unions and employers' organizations. At the level of individual banks, bargaining was until very recently conducted in law-based negotiation arenas. These were the so-called company mixed committees *(comité mixte d'entreprise)*[6] for businesses with more than 150 employees, and which were established by legislation in the 1970s and 1980s. New legislation implemented in July 2015 introduced a new configuration of intra-company social dialogue, with the suppression of the joint works council and with the transfer of bargaining power and missions to representative personnel delegations[7] *(délégation du personnel)*. On the employee side, such staff delegations are composed of representatives elected among the banking employees. In the banks with more than 1,000 employees, staff is entitled to have representatives on the board. A legal framework established in 2004 by legislation on collective bargaining stipulates these boards' organization and the bargaining items to be discussed in the context of collective labour agreements. Smaller negotiation units (*commission paritaire*) exist and monitor both the design and contents of the sector-level collective labour agreement.

Restructuring at sector and company level has been managed by a strong culture of collective bargaining, reflecting the bargaining tradition at the national level. Sector-level social dialogue is conducted by the three trade union organisations and an employers' organisation. On the union side, the main union in the sector is the independent Luxembourg Association of Banks and Insurance Employees *(*Association Luxembourgeoise des Employés de Banque et Assurance, ALEBA). The other two unions are the branch federations of the national confederations, the Onofhängege Gewerkschafts Bond Lëtzebuerg OGB-L (Independent Trade Union

[6] The joint works council took is origin the 1974 legal framework and was part of a series of legal initiatives to reinforce social dialogue in larger companies. All industrial, craft and commercial companies from the private sector, established in Luxembourg and having employed at least 150 employees during the last three years, had to set up a joint works council. Joint works councils are competent to decide on reinforcing health, security, and working conditions at the company level.

[7] The legal framework managing staff delegations was established in 1979. A delegation is elected among the staff of a company, regardless of nationality and aged 18 years or more, and linked to the company by contract or apprenticeship, as well as being employed for at least 6 months on the day of the election. Staff delegations are for example entitled to make proposals on measures reinforcing working conditions within the company and presenting individual or collective claims on the employer.

of Luxembourg, OGB-L) and the Lëtzebuerger Chrëschtleche Gewerkschafts Bond LCGB (Luxembourg Confederation of Christian Trade Unions – LCGB). On the employers' side, the Association des Banques et Banquiers, Luxembourg, ABBL (Luxembourg Bankers' Association, ABBL) represents more than 70% of the banks in the country (Castegnaro, Claverie 2011). Moreover, the results of the social-partner elections that are organised on a 5-year basis to be represented in the Chambre des Salariés[8] (Chamber of Wage Earners) indicate the relative strengths of the unions in the sector: ALEBA had half of the seats in 2013, followed by the OGB-L and the LCGB. Collective bargaining coverage in the banking and insurance sector is about 39% and less than the overall national coverage of 59% (Ries 2011).

A new collective labour agreement was signed in May 2014 and constitutes the main output of social dialogue in the sector. There is a practice in the sector of extending the collective labour agreement to the entire workforce. According to our interviewees, the new 2014 collective labour agreement is a compromise. Wage levels in the agreement have been frozen to limit the crisis' negative impact on jobs.

However, in terms of bargaining dynamics, law-based sector-level dialogue coexists with more informal instruments and practices of social dialogue. In the context of the EUROSOFIN research project, interviewees identified a coexisting culture of informal dialogue (contacts, meetings, internal agreements, etc.) facilitating consensus when problems occur and often prior to larger meetings during the collective bargaining rounds. As emphasised by an interviewee, these informal 'soft' instruments in the sector are facilitated by the size of the country and the relatively close relations between the bargaining actors. While softer instruments are applied to regulate the system, actors share a common agenda of national preferences and interests. At the tripartite level, where the finance sector is a recurrent topic of analysis and monitoring, the government assumes a coordinating role. As a trade union official stressed, it is in the interest of social partners to:

> '... try always, drawing on solidarity at the national level, to keep some added value here in Luxembourg because we all know that whether as unions or

[8] All employees or pensioners, excluding civil servants or public sector employees, must be affiliated to the Chamber of Wage Earners, regardless of their nationality or their residential location. In addition to its traditional role as a professional chamber, the Chamber informs employees and pensioners about economic and social developments (inflation, wage costs, etc.). The Chamber also delivers critical assessments on draft legislations in the Parliament. Through its training body, the Luxembourg Lifelong Learning Centre (LLLC), the Chamber plays an important role in providing training for adults and organising lifelong learning and socio-economic training of staff representatives in businesses.

employers, or on the other hand in legislature, that we can only survive if we retain a more-or-less respectful dialogue with each other. And the advantage is that in Luxembourg the paths between different persons are much smaller, much shorter than in other countries. Finally this [dialogue] makes us so strong. And then there is an inherent social dialogue which exists without necessarily having to have... greatly advertised meetings' (Interview with a trade union official).

An interviewee from the employers' side complements this vision of a common interest and consensus-seeking dialogue, emphasising that:

'[Luxembourg] is an interesting, secure and stable financial centre [which has] the objective that the main foreign branches continue to invest [here].'

Furthermore, sector-level trade unions often participate in the negotiations concerning bank level restructuring. In addition to the agenda of the 2004 law on collective labour agreements (i.e. training), they have developed a comprehensive knowledge and non-written 'standards' of what can be negotiated and what should be regarded as potentially conflictual. At the national level, social partners from the sectors can therefore lobby for legislative changes through their affiliation with the national organisations: this is well illustrated for example by the fact that trade unions consider some of the terms of negotiation related to maintaining in employment program to be too restricted.

5. Factors Driving Restructuring and its Processes

The research for EUROSOFIN identifies the main factors underlying the processes of restructuring in the banking sector in Luxembourg. Some of these driving factors already existed prior to the financial crisis, but their role has increased in recent years. In addition, studies on this subject are scarce. The factors identified in this section constitute potential bottlenecks for the sound development of the sector in the future. Challenges to the sector and the employment relations system in terms of socially responsible restructuring arise from their interrelatedness, as explained below in the article. Methodologically, the factors are identified in a categorisation process and related thematic analysis of the project's interviews.

5.1. International Regulation and Europeanisation

International and European regulations in the banking sector in Europe have increased over the last decades. A recent study by KPMG (2014) identifies dozens of global, European or national rules which have entered, or will enter, into force between 2013 and 2019. Some of them are based on European Union regulations such as for example the automatic exchange of data; others originate from schemes such as Basel III on bank capital adequacy, stress testing and market liquidity risk, or the American FATCA to detect US tax evasion.

Social partners at sector level are aware of the changing and intricate legal framework. However, as the interviews suggest, implementation of the framework is confined to the responsibility of individual banks and is not a subject of collective bargaining. Increased regulation impacts on employment in the sector, as far as the dynamics of employment transformation are concerned. This was underlined by an expert who emphasised that:

> 'Step by step, all these directives, all these structures are falling apart. That is to say it is now necessary to justify why there is staff in Luxembourg. As a result, jobs are being transformed, with everything that is operational being moved towards something that is more managerial work' (Interview with legal expert).

However, one form of resistance adopted by social partners is to pool forces at the European level with their European counterparts (sector level organisations of employers and trade union federations) to counter the effects of new regulation and share expertise with the objective of influencing the design of regulation. Social partners in Luxembourg are therefore collaborating at the European level through their respective European social partners and have established structures to influence the design of European and national policy. Interviews stress that pooling and organising resources at the European level reveals two aspects of the bargaining processes. First, the impact of a national position is limited: it focuses on national priorities in the sector with traditional strategies such as alliance-building. Second, the necessity for national social partners to make national interests heard at the European level entails a process of Europeanisation embodied, for example, both in stronger contacts through regular meetings, and by the establishment of national instruments in Brussels such as the Joint European Secretariat of OGB-L and LCGB *(Secrétariat européen commun de l'OGB-L et du LCGB)*, on the trade union side.

5.2. The Cross-Cutting Internationalisation of the Sector

An important factor driving the restructuring of the employment relations system is the growing internationalisation of the sector. While internationalisation has often been defined by the international character of banks with their decision-centres abroad, the research has highlighted how the internationalisation of the sector is cross-cutting and moving beyond the internationalisation of decision spheres.

Internationalisation has been reinforced by new requirements of skills with competences in niche activities such as Islamic finance, and the strategies of 'skills shopping' at the international level as the national employment market is unable to provide high skilled employees. As interviewees have emphasised, the largest share of the banks in Luxembourg are subsidiaries of foreign banks and decisions on restructuring are taken abroad. This has an impact on bargaining processes in Luxembourg. In the framework of their international strategies, international banks could leave the country or downsize, or change the nature of their activities in Luxembourg, as for example some German banks have recently done. In this way, the internationalisation of the sector that used to be an opportunity in the 1980s and 1990s now represents both an opportunity for attracting new capital and a threat to the sector, as skills mismatches and outsourcing processes increase. However, it has been observed at present that closures, mergers, and downsizing have been partially compensated by the arrival of Chinese and Latin American banks.

5.3. Outsourcing and In-Sourcing Processes

Since the beginning of the crisis, the cost pressure on banks has increased, and processes of outsourcing and offshoring have speeded up. According to the interviewees, three interrelated types of outsourcing define the processes of restructuring in the sector.

The first type of outsourcing is offshoring[9]. It consists of activities being relocated to countries with lower labour costs, mainly to Asia (India) or Central and Eastern

[9] Outsourcing involves the contracting out of a business process to another party. Offshoring includes relocating a business function to another country.

Europe (Poland). IT services are often identified as being relocated. The second type of outsourcing concerns the transfer of activities towards mainly private companies located within the country: this type of outsourcing means that an increasing number of employees are not covered by the sectoral collective bargaining agreement, and so leads to the segmentation of employment in the sector. A third type of outsourcing in the sector concerns the relocation of jobs within the same international banking groups (or multinationals), but in other countries. While jobs risk being lost in the first two processes, there is a chance that they will remain in the country in the latter case and so are covered by the collective agreement. However, this often requires employees to be mobile and accept the redirection of their career paths.

Some interviewees further underlined the fact that outsourced activities entail a loss of quality of service and communication between the client and the bank, as well as between the bank and company managing the outsourced activities abroad. In-sourcing is in this case considered as a cheaper option and jobs are again relocated back to the home labour market.

5.4. Difficulties of Anticipating Restructuring and Evaluation Instruments

The current economic and financial situation in the sector is complex as different indicators can be interpreted as being contradictory (KPMG 2014). From this perspective, interviewees suggest that forecasting represents a difficult task to be performed by the social partners, especially given the open nature of Luxembourg's economy. Furthermore, the restructuring process is subject to specific characteristics and challenges. For example, the culture of the banking sector is related to the requirement of stability, secrecy, and reputation. That is why many announcements of lay-offs and mergers are conducted according to the legal requirements in place, but are announced at the last possible moment. Our research illustrates that anticipation is difficult to achieve even though restructuring management is key to the social viability of restructuring processes. Monitoring, evaluation and networking instruments at the national level (for example through observatories and studies) and at sector level (through for example conducting surveys and identifying good practices) contribute to anticipation.

5.5. Adapting Training and Skills

This research has emphasised that processes of restructuring entail skills and competences to be adapted and that a redirection of employees' career paths is often inevitable. This adaptation is considered as the most fundamental factor related to restructuring in the sector, as interviewees have emphasised, mainly because skills mismatches are considered as a motivation for outsourcing activities. The panoply of regulations rapidly affecting bank management requires a high level of compliance: compliance is enforced by the recruitment of a specialised and high-skilled workforce, to the detriment of less skilled employees who see their jobs and career advancement opportunities endangered. What is more, the design of new niche banking products as a result of adaptations to exogenous pressures has led both to the requirement of recruiting a highly-skilled labour force on the international labour market, as well as to the implementation of new training strategies within banks.

Furthermore, the new regulations for the automatic exchange of data among tax authorities (which came into force in 2015) have a serious impact on the nature of capital and the clients that are attracted. This is especially true for private banking which is still considered as the flagship banking activity. As interviewees agree, before the entry into force of this new regulation, the 'small' clients of private banking were mainly individuals from neighbouring France, Germany, and Belgium. In the future, their accounts and related capital will be communicated to the tax authorities of the respective countries, which poses a threat to banks as clients might decide to shift their capital to more attractive financial centres.

Attracting new and larger capital and clients is a challenge and requires an overhaul of the management-client relationship: employees are required to be more competent in supporting and advising new clients in the context of international competition with other financial centres. Before the crisis, back-office work was mostly conducted in-house: now it is increasingly outsourced or pooled internally. This has had a considerable impact on jobs in back-office functions: previously, this process could be described as '*I can do*', now it is related more to '*I can parameter*' with the aim of preparing outsourcing. The research illustrates that two processes are at play in the sector: on the one hand, training schemes for skills adaptations and mismatches are organised internally, with banks required to spend at least 1% of their budget on training according to the 2014 collective bargaining agreement; on the other, reskilling and mismatching schemes are vital components of the restructuring process (i.e. in the context of negotiated social plans) in terms of getting vulnerable employees back into a permanent employment situation.

5.6. Towards a Process of 'Juridisation' of Collective Bargaining

The restructuring process includes the initial decision by the bank to restructure, the information and consultation phase based on law, as well as negotiations between employers and employee representatives that could lead to internal enterprise agreements, voluntary agreements between the two parties (*convention d'entreprise* or *Betriebsvereinbarung*), and in employment maintenance schemes[10]. These instruments are part of restructuring management in the overall process. If no agreement is reached, negotiations fail and a conciliation procedure is engaged to produce a final agreement between the management and social partners. If the conciliation procedure fails to produce a result, social plans are negotiated or employees risk becoming redundant.

Interviewees agree that the negotiation of restructuring has become increasingly difficult. This has notably been a result of the crisis, as agreements between the social partners could have been – and often were – negotiated internally. In this context, an expert emphasised that:

> '... in the financial sector in Luxembourg, social plans were still rare up until about three to four years ago because banks chose other measures to reduce the wage bill rather than redundancies. These included early retirements and other incentives... incentives for employees to resign voluntarily with severance, which was used a lot for young people who may have wanted to change careers or take a sabbatical. So we did what we could... but when all that was no longer sufficient, well then finally the only option left has been to use layoffs' (Legal expert interview).

As job protection plans are rarely negotiated in the sector, the preferred solution to avoid redundancies is the signature of internal enterprise level agreements. As an expert put it:

10 Employment maintenance involves a combination of various instruments to anticipate the restructuring effects of companies with difficulties, while maintaining employees in employment. These measures are supported by the public authorities.

> 'So these are initial plans but are often negotiated internally with the staff delegation. Often, in terms of job retention, there is something that is much more formal. It is then still necessary to work with the unions, and it is sometimes preferred in the financial sector to negotiate directly with employees' representatives than with sectoral unions' (Legal expert interview).

The employment relations procedure in the banking sector is regarded as less formal, given that informal bargaining instruments are mobilised, which are more discrete for the employer because these agreements are not communicated to the public or discussed in the media when compared to job protection plans which are seen as being negative by the media and the public. From this perspective, socially responsible restructuring founded on a consensus-based agreement has a positive impact on a bank's image.

Moreover, in some restructuring negotiations, bank agreements are the preferred solution because employers then negotiate directly with employee representatives while sectoral unions are involved less. The participation of sector unions as support for staff delegations is perceived as leading to potential conflicts of interest between the staff delegations and the sectoral union. This is because the latter also has a broader agenda with objectives the sectoral union wants respected. These problems were highlighted by a trade union official:

> 'At times, the staff delegation only sees its context… So its social, its involvement in the company... They do not always see the big picture. So sometimes there are things we would like as delegates to see in a social plan – that seem *a priori* – but could also be a big problem if we begin to accept such principles in a social [plan]... we are here to help delegates too, we are not there to control but we are here to help and we are also there sometimes to put the discussion a bit more within a comprehensive framework of policy at the sectoral level or within national policy' (Trade union official interview).

According to interviewees, preferences for formalised agreements are related to the original culture of the bank. Some banks apply the 'hire and fire' principle strictly, allowing less bargaining flexibility and room for manoeuvre, with legal principles then being strictly enforced. Others respect the employment relations tradition by seeking win-win situations for both employers and employees. As the sector is highly internationalised, social dialogue instruments on restructuring are permeated by what is referred to in interviews as 'cultures' within banks. As a legal expert emphasised:

> 'Banks from the UK, the US or Japan and Germany sometimes have problems, they prefer – how shall I say this? – to negotiate directly with internal representatives and so with internal staff delegations, with the employees of the bank, and they sometimes find it bizarre to have to negotiate with representatives outside the company' (Legal expert interview).

As analysed above, factors driving the underlying processes of restructuring (such as increased international regulation and cross-cutting internationalisation) mean that social partners are confronted with the mobilisation of new types of expertise in the negotiating process. One strategy detected concerns the pooling of resources at the European level. Another strategy to counter the effects of internationalisation takes places at the national level. For trade unions, delegates working in the banks are in the best position to provide expertise in collective bargaining. Nonetheless, as the several interviews have revealed, the various bargaining phases imply a growing 'juridisation'[11] process as social partners are accompanied in negotiations by external lawyers and legal experts. This already happens in the early information and consultation phases, when points of discontent are eliminated. The provision of expertise in restructuring management is also identified as a key component of impact management. The law is applied throughout this process, but negotiations have their own dynamics which have moved beyond the existing framework. As a legal expert involved in multiple restructuring cases emphasised in the context of the growing 'juridisation' process:

> 'There are customers who are present from the beginning, assisted and advised by experts, legal experts, lawyers. This is more and more the case. Why? Because unions are advised, they are already experts in social matters uh ... for employee representatives within companies, so unions are also increasingly assisted by lawyers, especially in the banking sector' (Legal expert interview).

Involving legal experts in bargaining coexists with a mobilisation of informal instruments of dialogue at the bank level. Both forms of bargaining, law-enforced social plans or informal internal agreements, are instruments applied in delicate negotiations in which socially viable restructuring is difficult to achieve. The provision of expertise required to handle changes in the legal frameworks involving international and European standards is seen as a challenging hurdle in the restructuring process. This is because a large proportion of this new legislation

[11] By 'juridisation' we mean the process of implementing the existing legal framework, ranging from the application of the law through to the reconciliation procedures, along with the provision of specific legal expertise throughout the negotiation process.

on banking requirements is not necessarily brought onto the bargaining agenda. As a trade union representative noted:

> '... We do not follow everything as the regulatory framework is substantial... there are European standards, national standards, what is imposed on us by the US, such as FATCA... we have an overview of all these constraints, but these are not things that directly enter into the discussion at the level of social dialogue' (Trade union official interview).

6. Discussion and Conclusion

In the context of the 2008–2009 financial crisis, there were considerable expectations of further decentralisation of collective bargaining in Europe. However, the present case study of the Luxembourg banking sector suggests that there has actually only been limited change to the employment relations system, given Luxembourg's context of strong collective bargaining institutions and tools (both formal and informal). We therefore agree with authors such as Kornelakis (2014) that diversity across employment models persists, and that there is a range of different responses to the pressure of liberalisation. Our findings are also consistent with the recent empirical research on banking restructuring in Germany – another example of the continental model – where Zagelmeyer (2013) identifies different responses by crisis-affected banks. These have led to various company-level adjustment strategies.

This article has analysed the dynamics and factors driving restructuring in the banking sector in Luxembourg. A particular emphasis was placed on trends and factors experienced by practitioners in the various negotiation instruments, with the objective of identifying those initiatives that contribute to increased socially-viable management of the restructuring process. Even if collective bargaining in the sector focuses on law-based negotiation themes that are on the agenda of collective labour agreements, our analysis emphasises that exogenous developments, such as pressures from international regulation or outsourcing strategies, have an impact on collective bargaining practices in the sector.

Anticipation and management of the restructuring process, the provision of instruments of employment relations, and the implementation of effective impact management through training schemes are all necessary steps to achieve socially responsible restructuring in a difficult socio-economic environment. In terms of anticipation, social partners at the sectoral level have a sound understanding of future challenges. Nonetheless, it is difficult to translate economic and business forecasts into employment forecasts, even if larger banks are much more able to plan in the longer run. This is exacerbated in Luxembourg by the specific culture of secrecy that is perceived as a barrier to 'early warnings' about restructuring. A process of 'juridisation' is identified as a consequence of negotiations occurring more effectively in an environment of growing regulation of the banking sector. Such 'juridisation' is a component of the socially-viable bargaining process, especially in terms of impact management. Solutions outside the formalised and legal pathways – such as company-level agreements – are preferred by many banks.

This article also argues that major negative impacts on the banking sector and on the overall economy have been avoided, as a result of the well-structured system of multi-level collective bargaining, the negotiation and implementation of the collective labour agreements, and the representation of employees at the bank level, combined with the use of informal instruments. Nonetheless, the management model of restructuring remains under constant pressure from the strategies of multinational banks, cost pressures, and increasing regulation. In the context of more viable restructuring solutions, these factors should be considered and integrated into the bargaining strategies of social partners. The instruments of a coordinated industrial system have played their role in contributing to the avoidance of mass dismissals in Luxembourg. But, the research here confirms that, even in this country, there is a greater risk of social dialogue fragmenting in the face of restructuring.

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