



Mutual Learning Programme

DG Employment, Social Affairs and Inclusion

Peer Country Comments Paper - Norway

**Strong industrial relations model
meets low wage competition**

**Peer Review "Towards a more dynamic collective
bargaining"**

Portugal, 23-24 October 2017



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1 Background to collective bargaining in Norway

Norway has long tradition for multi-employer bargaining, and most agreements cover a sector/branch. As for other Scandinavian countries the so-called "trend-setting model" (pattern bargaining) is important: wage increases in the export sectors set an economic framework which other (sheltered) sectors have to adhere to, and coordination across sectors and agreements are therefore important. The industrial relations system/bargaining system can be described as centralised with strong confederations and branch/sector level trade unions/employer organisations.

In the private sector there are different types of agreements for blue- and white collar employees respectively, whereas the state sector (until 2016) and the municipal sector have agreements that cover all employees/occupations. Agreements are entered for 2 years but wage increases are also negotiated in the second year of the two year period.

Norway has a two-tiered bargaining system, where company level bargaining and company level collective agreements play an important role, especially in the private sector (see table 1). At the central level two types of agreements exist, Cross sector Basic Agreements (setting the "rules") and sector/branch agreements (dealing with wages, working time, working conditions etc.). Agreements at lower level have to be in compliance with higher level agreements (strict hierarchy).

Company level bargaining is important for wages since the majority of sector agreements are so-called minimum wage agreements where company level bargaining is obligatory. The parties at the company level may also have more detailed regulations on wage systems, variable pay schemes, working time schemes etc. and may have the opportunity to choose more flexible working time schemes (based on common agreement). Company level bargaining takes place after sector level bargaining rounds and under a peace clause. The parties have agreed that additional company level wage increases should be based on the economic situation of the company in question (economic results and prospects).

Table 1. Types of collective agreements in Norway, based on blue collar workers in the private sector.

Level	Parties	Type of agreement	Content
1 Cross sector ¹	Confederations at both sides (or unaffiliated trade unions and employer organisations)	Basic Agreement 4 years Renegotiated under peace duty	Part 1 of all sector agreements Rights and obligations for employers and shop stewards (co-determination) Conflict resolution, peace duty, freedom of association, right to negotiate & other "ground rules" Co-determination, works councils etc. Framework regulation on equality, competence development etc.
2 Sector or branch ²	National level trade unions and employer organisations	Sector agreements 2 year long (wage rates are	Wages (minimum pay for different groups, guaranteed pay, overtime pay, compensation or un-social hours etc.).

¹ For an example: <https://www.nho.no/en/about-nho/publications-and-positions/research-and-innovation/Basic-Agreement-NHO-LO-2010-2013/>

² The Industry Agreement (example) <https://www.fellesforbundet.no/globalassets/lonn-og-tariffsaker/overenskomster-2016-2018/industrioverenskomsten-2016-2018-engelsk.pdf>

	(NB: relevant confederations are also parties of these agreements)	negotiated annually) Possible to use industrial conflict	Working time arrangements etc. (will vary from agreement to agreement) A number of other issues (will vary from agreement to agreement) Competence, equality, older workers etc. (mainly frame-work regulation) Sets a framework for local negotiations (what they can do and indirectly what they cannot deviate from)
3 Company level	Shop stewards and employers	Negotiated under peace duty	Company level wage increases, other issues that are not regulated at higher level or which higher level agreements leave to company level negotiations or where higher agreements state that company level parties may agree on alternative (e.g. more flexible) schemes. ³

Unions have shop stewards at company level (single channel representation), with considerable rights and responsibilities for company level bargaining, participation and co-determination. In general, unions at sector level will not be involved in company level bargaining unless the parties do not come to an agreement. If the parties do not agree, the last offer from the employer will be set as the result.

The collective bargaining coverage in Norway is estimated to approximately 65-70 percent. All employees in the public sector are covered by agreements, whereas the coverage rate in the private sector is around 50 percent. Unlike Denmark, Finland and Sweden, Norway does not have the Ghent-model for unemployment insurance. The implication is that Norway has considerably lower union density than the other Nordic countries. This is among the main explanations for the relatively low collective agreement coverage in the private sector.

Norway has no tradition for "opening clauses". If the economic situation is challenging, the parties might agree to not award any generally increase wages (done in 2015 and 2016) at sector level. In a situation where a company is struggling/not earning money, the company level settlement will also be very moderate or with no local level increases.

Norway (as the other Nordic counties) does not have any statutory minimum wage, and therefore relies on collective agreements to set minimum wage rates. These rates are decided in the sector agreements and only apply to employees that are covered by the relevant collective agreement. In the private sector most white-collar agreements do not have any wage rates (minimum rates or other).

³ For instance, the Industry Agreement (among others metal and machinery industry) have the following regulations on company level wage bargaining: *"The parties agree that local wage negotiations shall be held once every year of the duration of the collective agreement. When the wage negotiations are to be held shall be agreed on in the individual enterprise. The parties in the individual enterprise may agree on a splitting up of the wage increase. Local negotiations shall be held based on the individual enterprise's economic reality...."* The parties at company level may also decide on working time issues, for instance "Upon agreement between the local parties, ordinary working hours may be placed within the period from 0600 to 1900 hours for the first five working days of the week, and between 0600 and 1800 hours on Saturdays." If they don't agree the daily working time will be decided by the employer alone within 0700 and 1600 hours (less flexibility for the employer, less influence for the trade union).

Traditionally there has not been any possibility for the extension of collective agreements. However, a limited type of extension was introduced in 1993 and this option was firstly used in 2004.

2 Assessment of collective bargaining

2.1 The Norwegian system

2.1.1 Collective agreement coverage

The Norwegian collective agreement coverage is not very high in the private sector, and surveys and other data indicate a slight decline over time. The coverage rate also varies substantially between different branches/sectors (manufacturing, construction, private services). The Norwegian type of extension (see 2.2.c below) cannot be understood as a procedure for increasing collective agreement coverage, but more in the sense of setting minimum wages for with sector/branch level.

2.1.2 The role and influence of key actors at company level/bargaining levels

In Norway the two-tiered bargaining system secures a strong role both for social partners at the sector level and at the company level. The relations between the two levels are seen as complementary to each other, not as alternatives. In this respect the hierarchical structure of the bargaining system is important (see also table 1). The rights and responsibilities of company level trade union representatives as well as the scope for local level bargaining is determined in agreements at higher level, in the so-called Basic Agreements⁴ and the relevant sector/branch agreement. Rights on information, cooperation and codetermination are mainly set in the Basic Agreements as well as framework regulations on equality, older workers, migrant workers, the importance of competence development, control measures, new technology etc.

The majority of collective agreements in the private sector are so-called minimum-wage agreements. These are supplemented by company level bargaining agreements which form an important part of the pay setting procedures. The average wage rates are usually much higher than the minimum rates set in the collective agreements and in average 70-80 percent of the annual wage increases are decided at company level. In company level pay bargaining the parties shall take the economic situation (results, future prospects) of the company into consideration. The role of the parties at company level is not restricted to wage bargaining. A number of issues – such as pay systems or working time schemes – may be part of company level agreements. In addition, co-determination and representation of the employees/members vis-à-vis the employer are important parts of the responsibilities of company level union representatives. This is the case both in the private and the public sector.

In Norway, the employers' side has from time to time argued in favour of a more decentralised agreement structure, i.e. less detailed regulations at sector/branch level. Still, there is today no indication that any of the social partners want substantial changes of the present bargaining/agreement system.

2.1.3 Extension procedures

Contrary to Portugal, Norway has no state set/legislative minimum wage and no historic tradition for extension of collective agreements. A limited possibility for extension was included in the legislation in 1993: *Regulations on general application of collective*

⁴ Basic agreements cover employers' and employees' rights and obligations in their daily interaction at the enterprise level, as well as conflict resolution procedures and are labelled "the constitution" of collective the labour market. The LO-NHO Basic Agreement is included in all collective agreements between LO-affiliated trade unions and NHO-affiliated employers' federations. Other confederations and some independent unions as well as employers' associations have similar agreements, and all sectors are covered.

agreements (General Application Act⁵). The purpose of the Act is to ensure foreign employees terms of wages and employment which are equivalent to those of Norwegian employees, and to prevent distortion of competition detrimental to the Norwegian labour market. Relevant trade unions and employers organisations may file a demand for extension⁶, and such claims are decided by the Tariff Board based on documentation of sub-standard wage and working conditions among foreign employees. The Tariff Board is an independent administrative body which makes its decisions by majority rule. Decisions are normally made for two years (follows the duration of the collective agreements).

The Norwegian legislation and practice regarding extension cannot be compared with the extension procedures of continental European countries, and does not increase the coverage of collective agreements as such. The Norwegian scheme can better be described as a minimum wage scheme, establishing a wage floor for sectors with many migrant workers/posted workers. If a decision is made, only parts of the relevant agreement are extended. This will normally be minimum wage provisions and overtime pay, in some cases compensation for shift work or work at unsocial hours, in some cases provisions for travel and board and lodging. Here the Tariff Board will make decisions based on the relevant agreement and their understanding of the situation.

The Act has been used quite extensively in the wake of the EU eastward enlargement, where a substantial number of labour migrants and service providers from East/Central European countries entered parts of the Norwegian labour market. Extension has taken place among others in construction, shipbuilding, the agriculture and horticulture sectors, fish processing enterprises and industrial cleaning companies.

In most cases, the wage rates that are extended are mainly minimum rates well below the sector average rate, which means that extension has had only moderate effects on the wage level and working conditions of Norwegian employees. The implication is that extension mainly has restricted low wage competition and extreme low pay from/among Eastern European migrant workers. In other words, the scheme has more in common with minimum pay regulations than with "continental style" extension of collective agreements.

The decision to extend parts of The Industrial Cleaning Sector Agreement (2011) and a recent claim for extension of the agreement in the hotels- and restaurant sector (not yet decided on) may however change the current situation. These two agreements are so-called "normal-wage agreements" where company level bargaining does not play any (major) role. The implication is that the rates in the agreements are generally used in the sectors as minimum wages. Both sectors are characterised by low union density and collective agreement coverage, high number of immigrant workers (and young workers/students in restaurants). A decision in favour of extension for the hotels- and restaurant sector might therefore influence wage setting in the sector as such since collective agreement coverage is low.

In Norway the majority of demands for extension have come from the trade union side, although there are instances where the sector social partners made a common claim.

The discussion mainly concerned the question whether present legislation is a sufficient instrument to fight social dumping/low wage competition among work migrants, and whether the regulations set by the extension decision are going too far in the meaning demanding too much from the employers/setting the standards too high. There has also been a discussion on whether the Norwegian practise is in accordance with EU regulations on free movement of services/posted workers or not.

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https://www.regjeringen.no/globalassets/upload/ad/kampanjer/tariffnemnda/allmenngjoringsloven_sist_enedret_2009_engelsk.pdf

⁶ The Tariff Board may also claim extension, although this is uncommon.

The decision to extend parts of the collective agreement for the metal and machinery sector has been very controversial and has been deemed as going too far by the EFTA Surveillance Authority, i.e. in breach with EU regulations on posted workers.⁷ The matter of disagreement in the so-called **shipyard case** is whether regulations on travel, board and lodging expenses (set in the collective agreement) should be extended to posted workers or not. In this case the ruling by Authority is in direct conflict with the previous decision on the matter made by the Norwegian Supreme Court case. In its ruling the Supreme Court emphasised general application (extension) as a method to prevent social dumping, and the general application institute as a tool to ensure stability in the Norwegian labour market model.⁸ It is important to note that the ruling by the EFTA Surveillance Authority does not stop the Norwegian practice of extension as such.

2.1.4 The role and influence of key actors

In Norway labour market organisations at confederate level (umbrella organisations/confederations) and trade unions/employer organisations are influential actors. The main social partners meet regularly in tripartite income policy bodies such as the contact committee, Advisory Committee on Labour Market and Pension Issues, the Technical Calculation Committee for Wage Settlements (TBU) and in ad-hoc committees when the government and the social partners see the need to evaluate the wage setting model, legislation or other issues with relevance to the collective bargaining model. Until the late 1990s, only LO (The Norwegian Confederation of Trade Unions) and NHO (Confederation of Norwegian Enterprise) – the largest organisations at each side - participated. Around 2000 the other confederations/larger employer organisations were included, meaning that today all sectors and occupational groups are represented in such bodies. These bodies are important for the relatively high level of trust that exists among the social partners and the state, and allows the labour market parties and the state to meet and discuss issues of relevance to wage settlements as well as other issues that are important to the social partners.

2.1.5 Legal reforms

The Norwegian labour dispute legislation and other legislation regarding wage bargaining has not undergone any major changes. The main exception is the introduction of the possibility to extend parts of collective agreements to all employees in the sector (the 1993 Act). Here, additional legislation has been introduced over the last years to make extension a more efficient instrument to fight social dumping/low wage competition.

2.2 Comparison between Norway and Portugal

2.2.1 Collective bargaining system

The evolution of the Norwegian and the Portuguese collective bargaining system seem quite different in many aspects:

- One major difference is the strong role of company level bargaining/representation in the Norwegian two-tiered bargaining system. This partly answers the employer side's demand for company level flexibility.
- Another difference is that the Norwegian economy has been developing well over the past (until 2014), without any external pressure for changing the bargaining model. The bargaining model has been evaluated several times (last in 2013), but the driving forces for such discussions have been national considerations (will the wage setting model work in situation with high work migration, high dependence on a booming oil sector, new monetary regime, new types of social

⁷ <http://www.eftasurv.int/media/esa-docs/physical/Letter-of-formal-notice---Complaint-against-Norway-concerning-posting-of-workers---1.pdf>

⁸ <https://www.domstol.no/globalassets/upload/hret/decisions-in-english-translation/2012-1447-engelsk.pdf>

partners, etc.). The result has been strong support for the existing bargaining model and legislation.

- A common factor is the importance of tripartite bodies where the parties meet as equals and interact because they have common interests in an efficient labour market/wage setting (even if the priorities among the labour side and the employer side will differ).

2.2.2 Validity of agreements

In Norway this is not an issue with impact on the collective bargaining system. Multi-employer agreements are always renegotiated.

According to the Labour Disputes Act (Section 6) the validity of agreements is three years (unless otherwise stipulated). If a collective agreement is not terminated by the deadline, it shall be extended by one year.⁹

Sector/branch collective agreements are almost always entered for 2 years. One of the parties, normally the trade union, will routinely demand that the agreement is terminated in order to initiate renegotiations. If the parties do not reach agreement, The National Mediator will initiate mediation and if mediation fails, industrial conflict will take place.

There are no rules in place in situations where an agreement ends and the parties do not reach a new agreement (after industrial conflict).

In principle – if an agreement is terminated by one of the parties, and not is renegotiated, it will be discontinued. However, according to the Labour Dispute Act § 6 (3), the agreement will have an after effect until industrial conflict can be entered into. Thus, conditions in the agreement will still be valid in this period (i.e. if the agreement is terminated but none of the parties initiate an industrial conflict).

If an individual employer wants to withdraw from a collective agreement, the company will normally have to leave the employer organization. In such cases the trade union can resort to industrial action in order to reach a new agreement.

Decisions on extension, where parts of a collective agreement would be generally applicable, are made by the Tariff Board, usually for two years. A decision on continued extension has to be based on the fact that the reason for extension (risk for sub-standard wage and working conditions among foreign employees) are still valid. A situation where there is no collective agreement to extend (due to withdrawal from bargaining by the employer side/trade union side) is not seen as a realistic scenario.

2.2.3 Extension mechanisms

The Portuguese and the Norwegian extension schemes are different. The Norwegian scheme does not result in higher collective agreement coverage (as in Portugal), but establishes a minimum wage rate in certain sectors with many work migrants. Only parts of a sector/branch agreement are extended, not the whole agreement, and in most cases the wage rates are much lower than the sector average. The Basic Agreement (which regulated the relationship between unions and employers) is not extended since extension only gives the individual employee certain rights (minimum wage etc.). Extension does not establish any collective institutions such as shop stewards or rights to co-determination in companies without collective agreements.

In Norway the labour market parties – especially the labour side, but also the organised employer side and the state – are worried about declining collective agreement coverage in the private sector. The parties agree in principle that high collective agreement coverage is important for the so-called Norwegian labour market model. However, there

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https://www.regjeringen.no/globalassets/upload/ad/temadokumenter/arbeidsmiljo_og_sikkerhet/the_labour_disputes_act.pdf

are few efficient measures to increase collective agreement coverage, and the employer side more or less leaves this challenge to the union side alone.

3 Assessment of the success factors and transferability

As I understand the host country review, the success factors are:

- Meet the interest of the main actors
- Build on the existing structures in the industrial relations system

These two factors are also relevant for collective bargaining in Norway. Norway has a stable collective bargaining regime which relies strongly on consensus between the social partners on long-term goals of the labour market and the main elements of the bargaining/wage setting model.

However, it is difficult to see any direct transferability since the Norwegian industrial relations system has not faced the same challenges and pressure for major changes as Portugal. Factors such as withdrawing from collective agreements (Portugal 2003/2009) or pressure from the outside (the MoU 2011) have not been relevant in Norway.

The main elements of the bargaining model in Norway, as discussed in the previous paragraph, are tripartite bodies where the major social partners participate. An important role of the various tripartite bodies is to establish a common understanding of the main elements of wage setting model/collective bargaining model as well as of the current economic situation for instance – when Norwegian economy faced a downturn in 2015 and 2016 – the main trade unions and employer organisations in the private sector agreed on no general increase in the sector level bargaining rounds.

Although Norway has a stable industrial relations system, one completely new element has been implemented: extension of collective agreements. Here the Tariffboard, the social partners and the state had to establish new routines and procedures. Whereas the measure itself was new to the Norwegian collective bargaining system, the important role of the social partners in extension procedures is in line with longstanding traditions in the Norwegian industrial relations system. The Norwegian type of extension (establishing minimum standards) is also understood to be a necessary instrument in order to uphold the Norwegian collective bargaining model in a situation with strong low wage competition.¹⁰ Although the employer side in some cases has supported extension, employer organisations have also argued against several of the decisions on extension, among others because they disagree on the relevance in the specific situation (not enough evidence), because they believe the ruling goes too far (include parts of the collective agreement that is not necessary to secure equal conditions for foreign and national employees) and because they think other measures should be used (some of the employer organisations have argued in favour of a statutory minimum wage). Decisions are made by a majority vote, meaning that a decision in favour of extension can be made without the support from the employer side.

¹⁰ This was the argument by the Norwegian Supreme Court in the Courts ruling against nine shipyards who had fought the State's decision to make the industry's collective agreement generally applicable. <https://www.eurofound.europa.eu/ga/observatories/eurwork/articles/industrial-relations-other-working-conditions/supreme-court-rules-in-favour-of-equal-treatment-for-foreign-workers-in-shipyards>

4 Questions to the host country in the Peer Review

- What is the relationship between statutory minimum wage rates and the rates/wage level set by extension? Which are the sectors where agreements were extended and to what degree do extension result in a better situation for the workers (compared to sectors without extension)?
- Is the extension of collective agreements seen as an efficient instrument to fight social dumping/low wage competition? Are there problems with compliance/control?
- The position of employer side and the support for extension is interesting: Are there disagreements between employers, for instance those who see low wage competition as a problem/unfair and those who would be interested in employing/subcontracting cheap work? If so – will this make extension more controversial over time?
- Regarding the declining collective bargaining coverage: What kind of measures do you think will be effective instruments in order to increase coverage rates other than the use of the extension procedures?
- What are the main incentives for employees to join a union in sectors where collective agreements are extended in Portugal (i.e. how to avoid “free-riders”)?

Annex 1 Summary table

Background to collective bargaining in the peer country

- The Norwegian extension scheme is different from what is used in Portugal, strongly linked to sectors with high level of work migration and in most cases more like a minimum wage arrangement.
- Norway has a strong tradition for company level bargaining.
- Declining collective agreement coverage is a challenge in both countries
- The question of the renewal of collective agreements is of little relevance in Norway in contrast to Portugal. Agreements at sector/branch level are always renewed.

Assessment of collective bargaining

- Experiences from Norway support the statement that development of collective bargaining system needs to be initiated by the social partners.
- In Norway extension was not used before 2004 but has become an important element of the industrial relations system since 2004. Although a new type of provision, the regulations and the practice of these follow the tradition of social partner participation. The employer side and the trade union side do in many cases agree that it is necessary to implement some measures to fight "social dumping"/low wage competition, but the present type of extension is also debated and in some cases – controversial.

Assessment of success factors and transferability

- Since several of the measures are linked to the specific situation in Portugal (MoU), it is difficult to see direct transferability
- The observation that the state alone cannot implement new collective bargaining practises, and that it is necessary to involve the social partners is also a relevant conclusion for Norway. In Norway low wage competition has challenged the industrial relations system and the ability of collective agreements to regulate the wage floor. The labour market parties do not necessarily agree on the relevance of the new measures – as the so-called shipyard case is an example of – but in general the state would look for measures that both trade unions and the employer side accept.

Questions to the host country in the Peer Review

- What is the relationship between statutory minimum wage rates and the rates/wage level set by extension? Which are the sectors where agreements were extended and to what degree do extension result in a better situation for the workers (compared to sectors without extension)?
- Is the extension of collective agreements seen as an efficient instrument to fight social dumping/low wage competition? Are there problems with compliance/control?
- The position of employer side and the support for extension is interesting: Are there disagreements between employers, for instance those who see low wage competition as a problem/unfair and those who would be interested in employing/subcontracting cheap work? If so – will this make extension more controversial over time?
- Regarding the declining collective bargaining coverage: What kind of measures do you think will be effective instruments in order to increase coverage rates other than the use of the extension procedures?

- What are the main incentives for employees to join a union in sectors where collective agreements are extended in Portugal (i.e. how to avoid "free-riders")?

