Trade Unions and the Academic Workplace

Collective Bargaining in an Institution Without a Profit

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The academic workplace is regulated by collective agreements in a minority of European systems and by individual contracts in the majority, and the difference determines what a member of staff can contest. This article examines the representation of the academic staff: the four forms that it takes and the constituency each defends, the agreement that covers the salaries and not the workload, the strike that a profession of professionals does not use, and the consultation that substitutes for a negotiation. It argues that the weakening of the collective instruments has transferred the risk of the institution to the individual, and that the instrument which restores a balance is a bargaining unit defined by the workplace rather than by the grade.

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1. The Workplace Without a Contract

The academic workplace is regulated in most European systems by the law of the public service and by the individual contract, and the collective agreement covers a minority of the staff.

The consequence is that the conditions of the work — the teaching load, the hours of the meetings, the right to refuse a task — are decided by the management of each institution and contested, when they are contested, by an individual who risks her renewal. The instrument is a bargaining unit, defined by the workplace, with the right to negotiate the conditions that the law does not fix.

2. Four Forms of Representation

The representation of the academic staff takes four forms, and each defends a different constituency.

The first is the trade union, which negotiates the salaries and the conditions of the whole staff. The second is the professional association, which defends the standards of the discipline and the interests of a grade. The third is the works council, which is the instrument of the labour law and which consults on the decisions that affect the staff. The fourth is the senate, which is the academic body and which governs the curriculum and, in some systems, the appointments.

3. The Agreement and Its Scope

A collective agreement in higher education covers the salaries and the hours of the week, and it rarely covers the two conditions that determine the experience of the work.

The teaching load and the criteria of the evaluation are the conditions that a member of staff would wish to negotiate, and both are treated as the prerogative of the management. The consequence is an agreement that is precise about the pay and silent about the week.

The instrument is a scope that includes the workload model and the procedure of evaluation, negotiated once and applied to every institution of the system. A scope of that kind is the instrument through which the agreement becomes relevant to the staff who are not at the bottom of the scale.

4. The Strike That Is Not Used

The strike is the instrument of the industrial action and it is used rarely by a profession whose members are reluctant to interrupt the teaching of students who have paid.

The reluctance is rational and it is also the reason that the academic staff has little leverage: an institution that knows the teaching will continue can wait. The consequence is a negotiation in which the threat is not credible and an agreement that reflects the position of the employer.

The instrument is a form of action that does not harm the students: the suspension of the administrative work, the refusal of the evaluation, the return of the marks after the deadline. A repertoire of that kind is the instrument through which a professional workforce can exert pressure without a hostage.

5. The Consultation and the Negotiation

The consultation is the instrument that the reforms of the last two decades have substituted for the negotiation, and the substitution is a transfer of power.

A works council that is consulted gives an opinion that the management may follow or not, and the record of the opinion is the only trace. A bargaining unit that negotiates produces an agreement that binds. The consequence is a staff that is informed and not represented.

The instrument is a distinction in the law: the matters that require a negotiation and the matters that require a consultation, stated in a list. A list of that kind is the instrument through which the two procedures cannot be confused by the management of an institution under pressure.

6. The Precarious Member

The staff on fixed-term contracts are the least represented and the most in need of representation, and the unions have adapted to them slowly.

A researcher on a sequence of project contracts does not renew a membership that costs a share of a small salary, and she does not com-

plain about a condition that would not be renewed. The consequence is a representation that defends the permanent staff and negotiates the conditions of the periphery as a by-product.

The instrument is a membership that follows the contract: a fee proportional to the duration and the salary, a delegate in each faculty for the staff on fixed-term contracts, and a rule that the agreement covers the conditions of the project posts. The three are the instrument through which a union becomes the representation of the workplace rather than of a grade.

7. The Employer That Is the State

In the systems in which the state is the employer, the negotiation is conducted with a ministry that is also the funder, and the double role determines the outcome.

A ministry that concedes a salary increase must find the money in the budget that it allocates to the same institutions. The consequence is a negotiation in which the employer has an interest in the constraint and the union has no counterpart with the capacity to concede.

The instrument is a separation: the negotiation conducted with an agency that represents the employer and the funding decided by the ministry on the basis of the agreement, with a statement of the cost. A separation of that kind is the instrument through which a negotiation can produce an outcome that the system can pay for.



Figure 1 Four instruments of representation and their reach

8. The Data

A system can publish four figures about the representation of its academic staff, and the four are the basis of a comparison.

The first is the share of the staff covered by a collective agreement. The second is the density of the membership by segment of the workforce. The third is the number of the agreements concluded in the year and the matters they cover. The fourth is the number of the disputes referred to a procedure and their outcomes.

The four are administrative facts, and the second is the one that measures whether a representation exists beyond the permanent staff.

Form	Negotiates	Constituency
Trade union	Salaries and conditions	The whole staff
Professional association	Standards and grades	A discipline
Works council	Consultation	The employees
Senate	The curriculum	The academic body

Table 1 Four forms of representation and the constituency of each

9. The Student and the Staff

The interests of the students and the staff coincide in the quality of the teaching and diverge in the cost of the institution, and the two bodies negotiate separately.

A staff that negotiates a reduction of the teaching load produces a cost that the institution meets by increasing the class sizes, and the students bear it. The consequence is a divergence that the two bodies discover after the agreement and that neither has an instrument to reconcile.

The instrument is a joint body: a committee of the staff and the students that examines the effect of an agreement on the teaching, with an opinion published before the signature. A body of that kind is the instrument through which the two constituencies negotiate with the information that neither has alone.

10. The Comparison Across Systems

The coverage of the collective agreements in European higher education varies from almost universal to almost none, and the variation explains a part of the difference in the conditions.

A system with a national agreement has a teaching load that is comparable across its institutions and a mobility that is not penalised by the conditions. A system with individual contracts has a competition on the conditions that produces a concentration of the staff in the institutions that can pay. The consequence is a divergence that the framework of the area does not address.

The instrument is a comparison of the coverage and the conditions, published, with the effect on the mobility of the staff. A comparison of that kind is the evidence on which a system can decide whether to build the institution of the collective agreement.

11. The Sequence of a Reform

An institution that wishes to rebuild its representation can do so in a sequence, and the sequence begins with the scope.

The first step is the negotiation of the workload model and the procedure of evaluation as a part of the agreement. The second is the membership of the staff on fixed-term contracts and the delegate in each faculty. The third is the repertoire of the action that does not harm the students. The fourth is the joint body with the students and the publication of the four figures.

A sequence of that kind takes four years and the first step is a negotiation rather than a reform. An institution that begins with a demand for a higher salary produces a dispute that the budget decides.

13. The Health and Safety of the Workplace

The academic workplace has hazards that the industrial language of the labour law does not describe: the exposure to a solvent in a laboratory, the strain of a decade of temporary contracts, the violence of a student in a corridor.

The three are reported in the systems with a procedure and they are addressed in the systems with an office. The consequence is a distribu-

tion of the risk that follows the resources of the institution rather than the nature of the work.

The instrument is a risk assessment that names the academic hazards: the laboratory, the fieldwork, the clinical placement, the night teaching in a building without a guard. An assessment of that kind is the ordinary obligation of an employer and it is the one that the academic institutions have applied last.

14. The Representation of the Students in the Workplace

The students are not employees and they are present in the same buildings, the same laboratories and the same corridors, and their safety is governed by a different instrument.

A student in a laboratory at nine in the evening, a doctoral candidate alone in a building, a class in a room without a fire exit: each is a risk that the staff agreement does not cover and that the regulation of the students addresses as a discipline. The consequence is a protection that depends on the status rather than on the danger.

The instrument is a joint committee of the staff and the students on the safety of the buildings, with the authority to close a room. A committee of that kind is the instrument through which the workplace is defined by the place rather than by the contract.

13. Conclusions

The weakening of the collective instruments has transferred the risk of the institution to the individual, and the instrument which restores a balance is a bargaining unit defined by the workplace rather than by the grade.

Three conclusions follow. The scope must cover the week: the workload model and the procedure of evaluation negotiated in the agreement, together with the salaries and the hours. The representation must follow the contract: a membership proportional to the duration and the salary, a delegate for the staff on fixed-term contracts, and the coverage of the project posts. And the negotiation must be separated from the funding: an employer with the capacity to concede, a ministry that funds the agreement with the cost stated, and a joint body with the students that examines the effect on the teaching.

An institution that has done the three has a workplace. An institution that has done none of them has a management and a staff, and the conditions between them are decided in a conversation that leaves no record.

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