DECENTRALIZATION OF COLLECTIVE BARGAINING: THE CASE OF GERMANY

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1. General Trends in German Collective Bargaining

2. Decentralisation of Collective Bargaining

3. Three Case Studies: Chemicals, Metal Industry and Private Services

4. Conclusion & Outlook: Future of German Collective Bargaining
1. GENERAL TRENDS IN GERMAN COLLECTIVE BARGAINING
Collective Bargaining Coverage 2015
in % of workers covered by agreements

- Sector: 48%
- Oriented towards Agreements: 21%
- Company: 9%
- No Agreement: 22%
in % of workers covered by agreements


West

1998: 76%
1999: 75%
2000: 74%
2001: 73%
2002: 72%
2003: 71%
2004: 70%
2005: 69%
2006: 68%
2007: 67%
2008: 66%
2009: 65%
2010: 64%
2011: 63%
2012: 62%
2013: 61%
2014: 60%
2015: 59%

East

1998: 63%
1999: 62%
2000: 61%
2001: 60%
2002: 59%
2003: 58%
2004: 57%
2005: 56%
2006: 55%
2007: 54%
2008: 53%
2009: 52%
2010: 51%
2011: 50%
2012: 49%
2013: 48%
2014: 47%
2015: 46%
in % of workers covered by agreements

Sector Agreements

Company Agreements

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Collective Bargaining Coverage 2014/2015 in % of workers covered by agreements

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<tr>
<th>Covered</th>
<th>Not Covered</th>
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<td>57</td>
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Establishment Panel Structure of Earnings Survey

- 16,000 Establishments
- Annual

- 60,000 Establishments
- Every four years

Representative Survey with Establishments of all Sizes
Collective Bargaining Coverage 2014
in % of workers covered by agreements

- Public Administration: 100%
- Financial Services: 91%
- Energy: 85%
- Automobile Industry: 69%
- Metal Processing: 67%
- Chemical Industry: 64%
- Machine Building: 54%
- Telecommunication: 50%
- Total Economy: 45%
- Construction: 40%
- Postal Services: 40%
- Health & Social Services: 39%
- Electronic Industry: 36%
- Food Industry: 31%
- Retail Trade: 28%
- Hotels & Restaurants: 23%
- Automobile Trade: 20%
- Architecture & Engineering: 17%
- IT-Services: 15%
- Agriculture: 13%

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General Trends in German Collective Bargaining

1. Continuous Decline of Collective Bargaining Coverage

2. Growing Differentiation between Sectors

- **Majority** of Workers covered in Manufacturing and Public Administration

- **Minority** of Workers covered in many Private Services and Agriculture
General Trends in German Collective Bargaining

3. Fragmentation:

- Companies as Production Networks
- Outsourcing /Use of Contractors/Sub-Contractors
- Crowdworking
- Use of Temporary Agency Work

4. Decentralisation:

- Derogations from sector agreements via opening clauses etc.
2. DECENTRALISATION OF COLLECTIVE BARGAINING
Decentralisation of Collective Bargaining

Traditional German Dual System:

- **Collective Bargaining:**
  Trade unions and employers’ associations

- **Workplace Bargaining:**
  Works Council and Management

1960s/1970s:

- Decentralisation enforced by trade unions

1990s/2000s:

- Decentralisation enforced by employers
Decentralisation of Collective Bargaining
Since the Mid-1990s

Employers:
• Growing criticism on the “Inflexibility” of the German system; demand for more possibilities for derogations at company level
• Growing Number of “wild-cat cooperation” at company level undermining agreed standards

Trade Unions:
• Originally: Different strategies from fierce opposition to limited acceptance
• In the meantime: Broad Acquiescence; establishment of new procedural rules for controlled decentralisation; partly combined with new organising strategies
Decentralisation of Collective Bargaining

Opening Clauses in Sectoral Agreements

German Collective Agreement Act:
- Favourability principle, but …
- parties at sector level can agree on “unfavourable” derogations at company level via opening-clauses

Spreading:
- **1980s:** Working time reduction . Working time flexibility
- **1990s:** Started in East Germany – transferred to the West
  Started as “hardship-clauses” – extended to all kind of situations
- **Since the 2000s:** Opening clauses in almost all major sectoral agreements!
Decentralisation of Collective Bargaining

Content and Procedures of Opening Clauses

Content:

• General clauses

• Specific clauses on working time, basic pay, annual bonuses etc.

• Quid pro quo: Limited Employment Security; Promises for New Investments

Procedures

• Application by company parties (management & works council)

• Decision (mostly) by sectoral parties trade unions and employers’ associations
3. THREE CASE STUDIES: CHEMICALS, METAL INDUSTRY & PRIVATE SERVICES
Chemical Industry

Opening clauses:

**Working time** (1994)
- Corridor: Reduction/Extension from 37.5 hours down to 35 hours or up to 40 hours

**Annual bonus** (1995)
- Reduction or Postponement

**Wages** (1997)
- Reduction of up to 10%

**Procedure:**
- Company parties apply
- Unions & employers’ associations decide
Use of Opening Clauses in the Chemical Industry
Number of companies, 1994-2016

Source: WSI Collective Agreement Archive

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Metal industry

Opening clauses:

• **Working time flexibility** (1984ff.)
• **Hardship clauses** (1993 in East Germany)
• **Temporary working time reductions** in exchange for job security Mid-1990s:
• **Accord of Pforzheim** (2004)
  General opening clause with specific procedural rules

Use of Derogations (2014):

• In **49%** of the companies covered by a sectoral agreements
• affecting **60%** of the employees
  and **65%** of the union members
Metal industry
Derogations from Collective Agreements

Sectoral collective agreement covers around 3,500 companies
Metal industry
Derogations from Collective Agreements

Quid pro quo:

- Dismissal protection: 2012=517, 2013=600, 1. Hj 2014=617

Sectoral collective agreement covers around 3,500 companies.
Service sectors covered by ver.di
Derogation agreements

• **Different Regulations** in the various service sectors

• Local bargaining units have to apply for derogations

• Control of derogation agreements by a “clearing authority” at ver.di national collective bargaining department

• **Final decision** by the national executive board of ver.di
Derogation agreements in the service sector
approved by ver.di clearing department
Derogation agreements in the service sector approved by ver.di clearing department

- Hardship clauses
- Minimum wage
- Working time
- Others

Year | Hardship clauses | Minimum wage | Working time | Others
--- | --- | --- | --- | ---
2009 | 34 | 11 | 5 | 24
2010 | 39 | 9 | 6 | 13
2011 | 21 | 4 | 4 | 7
2012 | 29 | 13 | 7 | 8
2013 | 27 | 15 | 4 | 5
2014 | 21 | 20 | 4 | 1
4. CONCLUSION & OUTLOOK: FUTURE OF GERMAN COLLECTIVE BARGAINING
Use of Derogations in % of companies

Source: WSI Works Council Survey
Conclusion: Decentralisation of German Collective Bargaining

Opening Clauses are …

- an established fact
- used by around one fifths of the companies covered by collective agreements
- more widespread in larger than smaller companies
- more widespread in manufacturing than services

But …

- are continuously regarded with scepticism by workers’ representatives
- are of limited importance and have not prevented further decline of bargaining coverage
View of the works councilors

Decentralisation of collective bargaining is regarded as …

Source: WSI Works Council Survey
Shrinking core of the German model:
in % of private sector workers covered by both sectoral collective agreements and a works councils
Many Thanks for your attention!

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