

INDUSTRIAL BARGAINING AND WAGE INEQUALITY IN GERMANY

by Gerhard Bosch

The development of the German wage-setting system since 1990 demonstrates that income inequality increases rapidly as an inclusive wage-setting system is eroded. Collective agreements and works councils are now disappearing from broad swathes of the economy and, as a result, income inequality has increased rapidly. Nevertheless, social dialogue has continued to play a central role in Germany. Particularly worthy of mention in this regard is the joint management of the financial crisis by means of innovative working time systems and the recruitment of more than 540,000 trainees in the midst of the crisis in order to prevent youth unemployment from rising. This might well be the blueprint to follow in the next crisis.

Lo sviluppo del sistema tedesco di fissazione dei salari a partire dal 1990 dimostra che le disuguaglianze di reddito crescono rapidamente al venir meno dei sistemi inclusivi di fissazione dei salari. I contratti collettivi e le rappresentanze sindacali unitarie stanno scomparendo da ampi segmenti dell'economia e, di conseguenza, le disuguaglianze di reddito sono cresciute rapidamente. Ciononostante, il dialogo sociale ha continuato a svolgere un ruolo di primo piano in Germania. A questo proposito, particolarmente degna di nota è la gestione congiunta della crisi finanziaria attraverso un'organizzazione dell'orario di lavoro innovativa e il reclutamento di più di 540.000 tirocinanti nel pieno della crisi con l'obiettivo di impedire l'aumento della disoccupazione giovanile. Ciò potrebbe sicuramente rappresentare un modello da seguire nel corso della prossima crisi.

1. INTRODUCTION

Research has shown that the level of inclusiveness of the wage-setting system is the main factor in explaining inequality of market incomes for employees, over and above the median wage level. By contrast, inclusive systems allow workplace negotiations to be managed collectively by employees with varying degrees of bargaining power. The agreed terms are then made universal for all employees working in that particular company or industry or for the overall economy (Bosch, Mayhew and Gautié, 2010). Germany is unquestionably an excellent example to take as a basis for investigating this link between primary income distribution and industrial relations. Income inequality in Germany has increased dramatically due to the erosion of its wage-setting system, which followed the inclusive model until the mid-1990s. This is described in the literature as a transition from an employment system with low income inequality to a dualised job market with

extremely heterogeneous terms of employment (Carlin and Soskice, 2009; Palier and Thelen, 2010).

Social partners' influence on the distribution process depends on their strategic capacities, their power resources (Korpi, 2006), and their ability to use them strategically and effectively (Lêvesque and Murray, 2010). These power resources result from social partners' organisational and institutional powers. The term 'organisational power' denotes the specific power resources that can be mobilised during distribution disputes, examples of which include level of membership, financial reserves, and also the narrative resources available to persuade large sections of the company that the central demands of the negotiation are beneficial. The power resources that are guaranteed by law are also embedded in the employment system's central institutions, which emerged from historical compromises between labour and capital. The change in power relations is once again calling these historically won compromises into question and may set in motion a process of institutional erosion. The different ways in which institutions can be eroded and revitalised are the object of new theories on employment system transformation (Crouch and Farrell, 2002).

The rest of the chapter is structured as follows. In Section 2, the most important actors in the German industrial relations system, trade unions and employers, with their organisational power, will be analysed, together with the two central institutions of the German wage system, namely free collective bargaining and codetermination. This is followed by an investigation of the erosion of the German wage system and its consequences for income distribution (Section 3), putting particular emphasis on the decentralisation of bargaining and its consequences (Section 4). The next section focuses on the joint management of the financial crisis by the social partners and the State (Section 5) and the introduction of a statutory minimum wage in 2015 (Section 6).

2. ACTORS AND INSTITUTIONS IN INDUSTRIAL RELATIONS

2.1. Trade unions

With a total of 6.1 million members, over three quarters of all trade union members in Germany are organised by the Confederation of German Trade Unions (*Deutscher Gewerkschaftsbund*, DGB). The German Civil Service Association (*Deutscher Beamtenbund*, DBB) is the second biggest umbrella organisation with 1.3 million members, 915,000 of whom are public officials with lifelong tenure (*Beamte*). A third umbrella organisation is the Christian Trade Union Confederation (*Christliche Gewerkschaftsbund Deutschlands*, CGB), which claims to have 280,000 members, although this figure is highly contested. The trade unions affiliated with this organisation are well known for entering into accommodating collective agreements with companies in poorly unionised industries, the principal aim of which is to undercut the better terms agreed by DGB unions. There are also other trade unions that do not belong to any umbrella organisation, the biggest of which is the Union of Salaried Medical Doctors (*Marburger Bund*, MB), a union for employed doctors (see Table 1).

The German unions' umbrella organisations do not organise employees and do not have their own income from members' dues so they are dependent on subsidies from the individual trade unions. Collective bargaining and strikes are always organised by the industry-level trade unions. However, DGB has an important role to play in politics, coordinating with its members to exercise its political influence. It is especially important

when it comes to labour legislation, social policies, and other central political activities, such as vocational training initiatives.

Table 1. Trade union members in Germany: 2001, 2008 and 2015

	2001	2008	2015	2001–2008	2008–2015
Confederation of German Trade Unions (<i>Deutscher Gewerkschaftsbund</i>, DGB)	7,899,000	6,265,000	6,096,000	–20.7%	–2.7%
DGB affiliates:					
German Metalworkers' Union (<i>Industriegewerkschaft Metall</i> , IG Metall)	2,710,000	2,301,000	2,274,000	–15.1%	–1.2%
United Services Union (<i>Vereinte Dienstleistungsgewerkschaft</i> , ver. di)	2,807,000	2,138,000	2,039,000	–23.8%	–4.6%
Mining, Chemicals and Energy Industrial Union (<i>Industriegewerkschaft Bergbau, Chemie, Energie</i> , IG BCE)	862,000	701,000	651,000	–18.7%	–7.1%
Building, Agriculture and Environment Workers' Union (<i>Industriegewerkschaft Bauen–Agrar–Umwelt</i> , IG BAU)	510,000	336,000	273,000	–34.1%	–18.8%
German Union of Education (<i>Gewerkschaft Erziehung und Wissenschaft</i> , GEW)	268,000	252,000	281,000	–6.0%	+11.5%
Food, Tobacco, Hotel and Allied Workers' Union (<i>Gewerkschaft Nahrung–Genuss–Gaststätten</i> , NGG)	251,000	206,000	204,000	–17.9%	–1.0%
Railway and Transport Union (<i>Eisenbahn – und Verkehrsgewerkschaft</i> , EVG)	306,000	219,000	197,000	–28.4%	–10.0%
German Police Union (<i>Gewerkschaft der Polizei</i> , GdP)	185,000	169,000	177,000	–8.6%	+4.7%
German Civil Service Association (<i>Deutscher Beamtenbund</i>, DBB)	1,211,000	1,280,000	1,294,000	+5.7%	+0.2%
Christian Trade Union Confederation (<i>Christlicher Gewerkschaftsbund</i>, CGB)	not available	275,000	280,000	not available	+1.8%
Non-affiliated unions*	220,000	255,000	270,000	+15.9%	+5.9%
Among them:	70,000	106,000	119,000	+51.4%	+11.3%
Union of Salaried Medical Doctors (<i>Marburger Bund</i> , MB)					
In total	9,330,000	8,075,000	7,940,000	–13.5%	–1.8%
Net union density	23.7%	19.1%	17.7%**	–4.6 p.p.	–1.4 p.p.

* Estimation by WSI; ** 2013.

Key: p.p.: percentage points.

Source: Dribbusch, Lehnndorff and Schulten (2017, p. 200) (data based on information from the respective trade unions; union density: Visser ICTWSS Database Version 5.0).

Even at the height of their power, the German trade unions were organising little more than a third of workers and consequently did not enjoy anywhere near the same degree of organisational power as the Scandinavian trade unions, for example. At the end of the 1970s, trade union density in the former West Germany reached its zenith at 35.5% (in 1978). This then began to drop in the 1980s, reaching just 17.7% in 2013 (Visser, 2015). In particular, the unions have not succeeded in making good the members they have lost in the bastions of the manufacturing sector, whose share in total employment has shrunk as a result of structural change, by organising workers in the growing private service sector, especially the increasing numbers of women employed there.

Trade union density in large manufacturing companies and sections of the public services can occasionally be as high as 90% (in the steel industry, for example). In many service industries and small to medium-sized enterprises, however, the unions scarcely have a presence at all. Successes have been achieved through organising campaigns and the targeted representation of certain groups, such as kindergarten teachers or airport security employees. Small unions that represent only specific occupational groups with considerable strike leverage, such as the Train Drivers' Union (*Gewerkschaft Deutscher Lokomotivführer*, GDL), have been considerably more successful in this than the large trade unions, which always have to balance the interests of different professions.

2.2. Employers' associations

Historically, trade unions were the midwives of employers' associations, which were formed primarily as counterweights to the unions, above all as anti-strike associations, initially. It is where unions are strong, such as in the German metalworking and engineering industry, that by far the strongest employers' association, the Federation of German Employers' Associations in the Metal and Electrical Engineering Industries (*Gesamtverband der Arbeitgeberverbände der Metall – und Elektro-Industrie e. V.*, Gesamtmetall), is to be found; conversely, where they have become weaker, such as in the meat processing industry, the employers' associations play only a marginal role.

The associations responsible for private sector industrial relations are organised as part of the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA). The membership of the BDA consists of 52 sectoral federations representing individual industries, 24 of which representing manufacturing industries. In addition, there are 14 cross-sectoral federations at *Land* level whose membership consists of the various industry associations at that level.

Like DGB, BDA does not itself conclude agreements, although it does coordinate collective bargaining to a considerably greater extent than DGB. In its so-called 'Catalogue of wage and collective bargaining issues to be centrally coordinated', which has been revised at intervals, BDA sets out binding limits on collective bargaining; these are actually red lines that individual employers' associations must not cross without prior consultation with and the agreement of BDA. In the past, common lines of defence were established with regard to holiday entitlement and weekly working time. Now, however, it is not publicly known whether there is still an official taboo list or whether it has been replaced by an unofficial one. This argument is supported by the absolute block the central collective bargaining committee places on all applications for the general extension of wage agreements.

While unions as mass organisations are relatively transparent, employer's organisations do not release much information regarding the evolution of their membership, let alone their finances. This makes it difficult to assess their organisational power. Visser estimates that

employer density was 63 % in 2002 and 58 % in 2011 (Visser, 2015). These figures suggest that the employers' associations are also being eroded, as a number of individual studies have clearly demonstrated. The weakening of the unions has allowed many companies to leave employers' associations and renegotiate wages at company level without fear of labour disputes. This first started to happen in East Germany and then increasingly in West Germany as well. Employer density in the metalworking and engineering industry, as reflected in membership of Gesamtmetall, the largest employers' association in Germany, fell in West Germany from 77.4 % in 1985 to 56.5 % in 2006, a drop of more than 20 %. In East Germany, membership fell from approximately 65 % in 1992 to less than 20 % in 2006 (Haipeter, 2011), with members citing dissatisfaction with working time regulations as their main reason for resigning. A survey of managing directors in employers' associations showed that the fall in membership numbers seems to have stopped since 2005 (Nicklich and Helfen, 2013). The situation is completely different for the public sector, almost 100 % of whose employers are organised.

Since the 1990s, employers' associations have tried to retain members increasingly by offering membership without the obligation to comply with collective agreements – so-called 'OT membership', with 'OT' standing for 'ohne Tarifbindung'. In this way, members have continued to benefit from the advice services but are excluded from shaping collective bargaining policies and receiving financial assistance from strike funds. By offering this category of membership, the associations were seeking, on one hand, to retain members and, on the other, to put pressure on the unions, which now increasingly have to consider the stability of employers' associations when negotiating collective agreements.

2.3. Collective bargaining policies

Following bad experiences with State-enforced settlements during the Weimar Republic, the Federal Republic of Germany refrained from direct intervention in collective bargaining. One of the basic rights enshrined in the German Constitution is the freedom of coalition. The freedom enjoyed by social partners to engage in collective bargaining on behalf of their members without state intervention is one of the most important concrete manifestations of this basic right. The legal regulations governing collective bargaining are deliberately few in number, their main goal being to strengthen the negotiating privileges of trade unions and employers' associations and to establish collective agreements as binding. The agreed standards cannot be undercut but only improved at plant level (the so-called 'favourability principle'); however, the negotiating partners can agree to allow downward deviations.

German collective bargaining law is open to collective agreements made at different levels. It permits collective agreements to be concluded at national or regional level, or even at industry, company, or establishment level. Because of the trade union structure, the industry level has emerged as the dominant bargaining level. There have never been national collective agreements in Germany akin, for instance, to those in France, where they have become an important instrument in the national social dialogue and laid the groundwork for changes in legislation. The national social dialogue in Germany is not institutionalised but rather organised on a case-by-case basis.

2.4. Codetermination at establishment and company level

In the post-war years, the unions demanded institutionalised codetermination at establishment and company level. This was controversial, but it came at a time when

trade unions were in a position to mobilise their membership effectively around the issue. The disputes ended with the adoption of the 1952 Works Constitution Act (*Betriebsverfassungsgesetz*, BetrVG), which provided for a weak form of codetermination at company level (one-third parity on supervisory boards). Works councils' rights of codetermination were improved in several amendments to the act. The right to equal participation on the supervisory board was introduced in 1976 in companies with more than 2,000 employees. The arrangement places an executive member of staff among the employee representatives, while the chairperson, who has double voting rights, is appointed from among the management's representatives.

According to BetrVG, works councils are elected by all the employees in an establishment. In contrast to the Scandinavian system, works councils are not organs of the trade unions but have nevertheless emerged as the biggest source of trade union power at company or establishment level. Works councillors may be dismissed only under extraordinary circumstances (for example, theft). They have to be released from work as required in order to carry out their duties. They have the right to the resources they require in order to carry out their duties including offices and secretarial assistance and, in large companies, specialist staff and access to professional advice. They have strong rights to codetermination on social and personnel issues and access to information on economic issues. In contrast to trade unions, the principle of trustworthy cooperation applies to works councillors. They must not call for industrial action but in the event of disputes over codetermination issues, they can call on an arbitration committee whose decisions are binding. Similarly, structured staff councils also exist in the public sector.

Many studies have demonstrated that companies with works councils are more likely to comply with collective agreements and legislation than those without. However, not all employees benefit from this. In the public service, nearly all employees are represented by staff councils. However, in 2014 only 43% of all employees in the western German private sector were represented compared with 33% in eastern Germany. Representation through works councils is very much dependent on company size. Works councils have been elected in almost all large companies, but their share decreases with company size. Only in 38% of companies with 50-100 employees have works councils been elected, and in smaller companies the share is considerably lower (Hans-Böckler-Stiftung, 2016). This also explains the pronounced differences between industries. In well-established sectors dominated by large companies – such as energy, financial services, and manufacturing – the majority of employees are represented by works councils. In industries with small and newly founded companies, on the other hand, works councils are the exception.

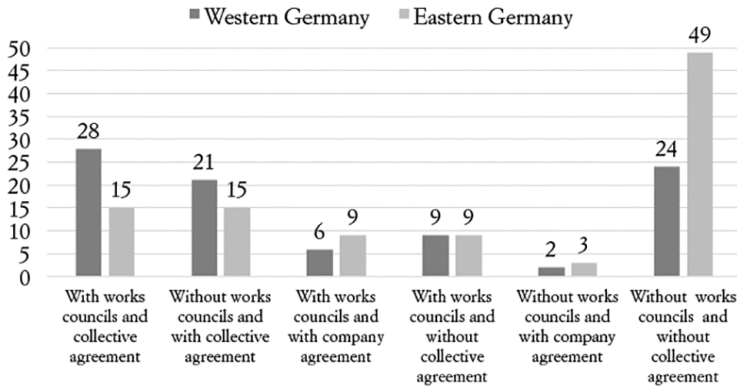
In 2010, approximately 174,000 German works councillors were elected with a voter turnout of almost 80%. Around 8,400 of these are released from all work duties and around 1,000 from some of their work duties in order that they can perform their council duties. They are mostly trained at trade union training centres at their employers' cost. More than two thirds of works councillors and the majority of those released from work are members of a DGB trade union (Greifenstein *et al.*, 2011). This is several times the number of full-time workers employed by German trade unions. Works councils are now the main actors in union recruitment. In only a few big companies do trade union shop stewards still operate alongside works councils.

In addition, in 2014 employee representatives were elected to the supervisory board in 635 larger companies with codetermination on a parity basis (Ehrenstein, 2014). Employee

representatives in these companies account for half of the supervisory board mandates. Codetermination rights in the steel and mining industries are more extensive. The human resources director is appointed on the recommendation of the employee representatives in the supervisory board. In a further 1,500 companies with fewer than 2,000 but more than 500 employees, one third of the supervisory board is made up of employee representatives (one-third parity).

In western Germany, the two major institutions addressing distribution issues – collective agreements and works councils – still cover two thirds of employees in private-sector companies with more than five employees; the share in eastern Germany, on the other hand, is slightly less than 50% (Figure 1).

Figure 1. Works councils and collective agreements in private-sector companies with more than five employees in 2014, Germany



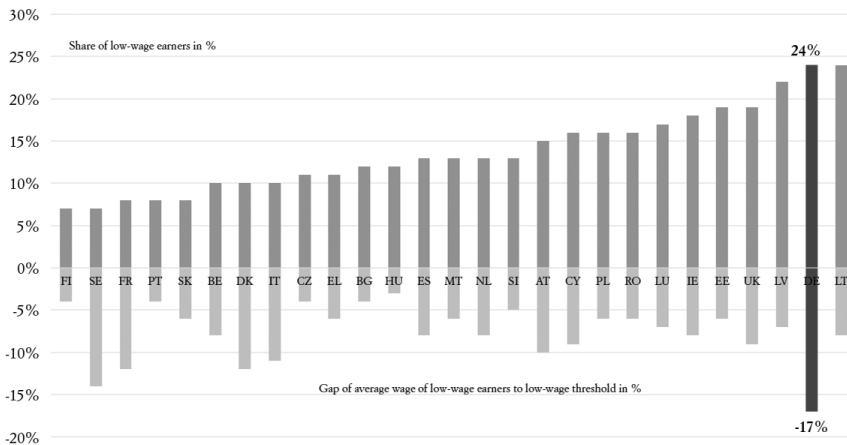
Source: Ellguth and Kohaut, 2015 (Grafik Böckler Impuls 10/2015, p. 5).

3. DECREASE IN COLLECTIVE AGREEMENT COVERAGE

Until the start of the 1990s, Germany was renowned for its low income disparity (OECD, 1996). Until German reunification, in fact, collective agreement coverage was around 85% (Visser, 2015); this was several times greater than trade union density, as the majority of companies belonged to an employers' association. The high levels of corporate compliance with collective agreements can be attributed, firstly, to the low unemployment rates in the former West Germany. This strengthened employees' bargaining power and made unilateral wage settings without the protection of employers' associations in the event of disputes unattractive to employers. Secondly, the associations and chambers in the old German corporatist system, with its closely interconnected companies that took a long-term view of business, were able to exert moral pressure in order to ensure fair wage competition (Tullius and Wolff, 2012).

From the mid-1990s onwards, compliance with collective agreements began to crumble. Collective agreement coverage declined to 60% and 47% in western and eastern Germany, respectively (WSI Tarifarchiv, 2015). Since 1995, the considerable reduction in collective agreement coverage has led to a rise in the share of low-paid workers, which is now above average by international standards. Furthermore, because of the absence of a statutory minimum wage, wage levels collapsed to such an extent that by 2010 the gap between the average pay of low-wage workers and the low-wage threshold was greater in Germany than in any other European country (Figure 2)¹.

Figure 2. Proportion of low-paid workers and the difference between their average wage and the low-wage threshold (under 60% of the median wage) in the EU in 2010



Source: Fernández-Macías/Vacas-Soriano, 2013; author's illustration.

Alongside areas that continued to be well organised, there were now large swathes of the labour market in which wages were no longer negotiated collectively but set unilaterally by employers. The good wage settlements no longer acted as pattern agreements for other industries, so that settlements were becoming increasingly differentiated depending on trade union bargaining powers. This development is also reflected in the wage drift that has occurred in most years since 2000. Collectively agreed wage rates have usually risen faster than actual wages because only a decreasing share of employees benefit from collective bargaining (Figure 2).

The substantial growth in low wages indicates that wages have returned to being a competitive factor, with bad standards squeezing out good ones over the long run. The major reasons for this development can be summarised as follows:

¹ The authors have not used the standard low-wage threshold of two thirds of the median wage here, as they wanted to calculate the effects of a European minimum wage, which is set at 60% of the median wage.

- *the high rate of unemployment since 1991*: with the collapse of the eastern German economy and the end of the post-reunification boom, unemployment in the whole of unified Germany increased from 1.9 million in 1990 to 4.9 million in 2003. The increase in mass unemployment weakened job seekers' ability to negotiate, as they increasingly had to accept low wages;
- *the eastern Germany productivity deficiency*: the rapid transfer of western German employment conditions to eastern Germany failed to serve many of the companies that were established just after reunification, since their productivity level was too low to benefit from the conditions. This led to the large-scale abandonment of collective agreements, which in turn led to companies withdrawing from the employers' associations (or newly established companies refusing to join);
- *corporate strategy change*: the growing number of areas in eastern Germany that were not covered by collective agreements showed companies that, in view of the mass unemployment, it was possible to get out of the collective bargaining system without having to fear sanctions from the weakened trade unions;
- *product market deregulation*: it was mainly the effect of EU directives that opened up former public services to private suppliers. New suppliers that were not covered by collective agreements were able to undercut the old public suppliers with low wages and prices. Subsequently, collective agreement coverage decreased in industries that had been previously at 100% such as the railways, post, telecommunications, public transport, and waste management services;
- *fragmentation of companies*: the growing wage differences induced companies and the state to outsource many jobs in order to save on wage costs. As a result, poorly paid workers employed as 'subcontractors' have ended up working alongside well-paid members of the core workforce;
- *labour market deregulation*: there was increased pressure on the unemployed to accept low-paid jobs due to the 2003 Hartz reforms, which had lowered unemployment benefit entitlements and introduced a harsher definition of a reasonable job offer. At the same time, tax-free mini-jobs with a maximum monthly salary of €450 were further deregulated along with temporary work, and both were developed as alternatives to well-paid jobs;
- *women's employment as a built-in deregulator*: due to changing expectations of gender roles, the number of women in employment has increased substantially in Germany, as it has in other European countries. Many women worked in mini-jobs² due to the lack of childcare and to the half school days, which were customary in Germany;
- *public service downsizing and privatisation*: the number of public-sector employees decreased from 6.74 million in 1991 to 4.65 million in 2014 due to the outsourcing of formerly public jobs to the private sector and the downsizing of public services (Destatis, 2014). This led to the loss of many well-paid jobs, because all public employees are still covered by collective agreements or have *Beamte* status with relatively good salaries.

4. DECENTRALISATION OF COLLECTIVE BARGAINING POLICIES: DEVIATIONS AND DIFFERENTIATION

The decentralisation of collective bargaining began with the working time reductions below the 40-hour mark that were negotiated in 1983. As a quid pro quo for the cuts in

² Marginal part-time jobs with maximum earnings of € 450 per month.

working time, companies were able to push through a more flexible distribution of working time over a year or more. The second wave of decentralisation began in eastern Germany following reunification and then spread to western Germany. The goal was no longer to differentiate working time but rather to reduce wages below the collectively agreed, industry-wide standards or to increase working time. The third wave of decentralisation came in 2003 when, as previously mentioned, the SPD³/Green Schröder government demanded that derogation clauses be used in order to undercut collectively agreed standards, its principal target being the export-oriented metalworking and engineering industry. In the 2004 'Pforzheim Agreement', so called after the place at which the negotiations took place, IG Metall drew lessons from the bad experiences of uncontrolled decentralisation in the 1990s and used this as the basis for its decisions. It was stipulated that deviations from the collective agreements should serve to safeguard employment, be used by companies only in emergency situations, and be negotiated by the parties to collective bargaining rather than works councils.

An evaluation of some 800 collective agreements in the metalworking and engineering industry and company case studies have shown that IG Metall not only made concessions but also received some *quid pro quos*, such as dismissal protection for a number of years and agreements that plants would remain open, with guarantees of investment or enhanced initial and further training. At the same time, the results of the concession agreements were presented to the union membership for voting. The stronger coordination of divergences from collective agreements, and the inclusion of the workforce in negotiations even helped strengthen union organisation (Haipeter and Lehndorff, 2009).

Table 2. Distribution and use of derogation clauses by company size, Germany, 2011* (percentage share of companies; extrapolated results)

Derogation clauses of any kind		
Available**	% used***	Share of all companies using derogation clauses
25	73	19
42	72	30
54	76	41
62	73	45
28	73	20
47	75	35

* Base: private-sector companies with more than five employees and covered by collective agreements, excluding agriculture and non-profit organisations.

** Share of all private-sector companies with more than five employees and covered by collective agreements.

*** Share of companies that have derogation clauses in their collective agreements.

Source: Ellguth and Kohaut, 2014, p. 442.

Table 2 shows that 47% of the companies surveyed said that there were derogation clauses in their bargaining area, 75% of which were used in practice. Derogation clauses

³ Social Democratic Party of Germany (*Sozialdemokratische Partei Deutschlands*).

are utilised more frequently in large companies than in small ones. The reasons for this may be that these companies are better informed about them, that they have fewer opportunities for informal agreements, and that their professionalised HR policies enable them to sound out and make use of the available room for manoeuvre more systematically than smaller firms. The survey also shows that derogation clauses tend to be used mainly to negotiate company agreements on working time and pay. The multivariate analysis shows that companies with economic problems are more likely to use opening clauses for wage negotiations in order to temporarily lower their wage costs. On the other hand, clauses on flexible working times are not used for economic reasons but instead are more likely to be a part of companies' pre-emptive flexibility strategies.

5. DEALING WITH THE 2009 FINANCIAL CRISIS

The German manufacturing industry was particularly affected by the financial crisis, as it mainly produces long-lasting consumption goods (such as cars) and capital goods, the purchase of which can be easily postponed during a period of recession. With a reduction of 4.9% in 2009, Germany's GDP declined more significantly than that of the USA or the United Kingdom. That said, employment and unemployment rates remained stable, as companies 'reduced hours, not employees'.

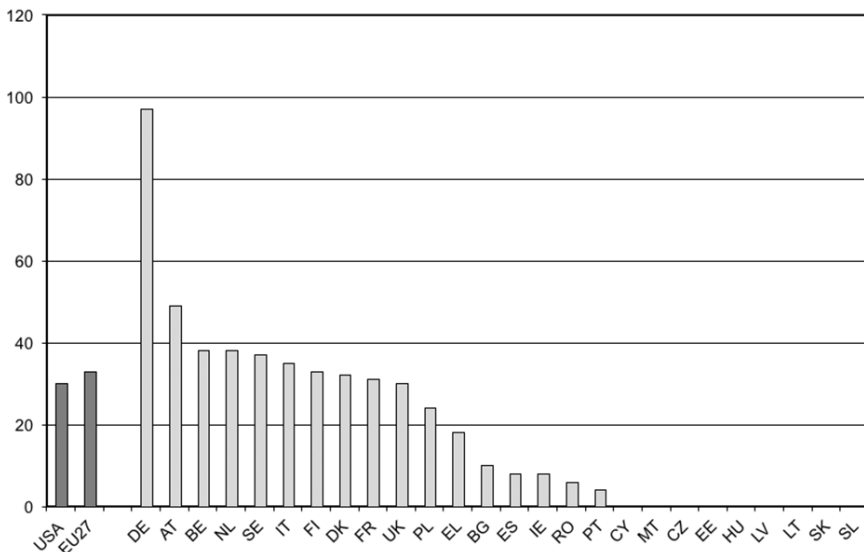
Trade unions, employers, and politicians worked together in a sort of informal 'Coalition for Work' set up in the Federal Chancellery in order to prevent job cuts. This 'employment miracle' was made possible by a package of working time measures ranging from the depletion of accumulated working time credits, through reductions in overtime and temporary reductions in agreed weekly working times, to short-time working. In the course of what were at the time very heated debates over the past 20 years, the parties to collective bargaining had developed socially acceptable models for working time flexibilisation, which paid off during the financial crisis. Additionally, they had agreed on the possibility of temporarily reducing the agreed working time within a certain corridor – a measure that was reserved for times of crisis. The chemical industry had agreed on a working time corridor of between 40 and 35 hours with a collectively agreed working time of 37.5 hours. In the metal industry, it was possible to temporarily reduce working time from 35 to 30 hours. Additionally, the introduction of short-time working became the most important state policy instrument in safeguarding industrial capacities without breaching EU aid regulations.

Even in Germany, short-time working had not been used anywhere near as intensively in earlier crises, such as the end of the dotcom bubble in the year 2000 or the 2003-2004 crisis, as it was in the financial crisis. The main reason why companies changed their approach in 2009 was the negative experiences they had had in the previous two crises, which were marked by severe job cuts. At that time, the companies had become victims of their own declarations on the future of the German manufacturing industry. They no longer believed that Germany had a future as a major manufacturing economy and felt they had to be significantly reduced in size. They then found that they lacked the skilled workforce to capitalise on the lengthy economic upswing between 2004 and 2008.

Other countries, such as France, Austria, Belgium, and the Netherlands, also expanded their short-time working arrangements, although they were not used anywhere near as intensively as in Germany (Figure 3). For instance, the hierarchical nature of the French

productive system probably explains why French companies used the similarly generous short-time work regulations less than German companies. French management (*cadres*) regards production workers, most of whom are semi-skilled, as largely interchangeable, so they can be let go during crises without the company suffering any long-term negative effects. Moreover, trade unions and politicians did not campaign so actively to safeguard jobs but relied on early retirement, which in Germany had become too costly for companies, following several pension reforms.

Figure 3. Share of working time reductions in the reduction in the total volume of work in the EU in 2008-2009



Source: Eurostat, 2010.

The second aspect of the employment miracle – the prevention of high youth unemployment – has been completely forgotten by the public and ignored in the literature. Most European companies reacted to the crisis by freezing recruitment. Labour market outsiders were affected by this, particularly young people, among whom unemployment rates increased more than average, so that high youth unemployment became a central problem in many European countries. In Germany, by contrast, 566,000 new trainees were recruited in 2009, the year of the crash (admittedly, 50,000 fewer than in the previous year) (Bosch, 2011, pp. 261 ff.). However, a complete collapse of firm-based vocational training was averted through the work of many training alliances between social partners at national, regional, and company levels. It turned out that considering apprentices as

'labour market insiders' was a central advantage of the dual vocational training system. As a result, the recruitment of trainees was almost as much a priority for trade unions and works councils as safeguarding the jobs of older workers. Temporary reductions in working hours, such as those during the financial crisis, make it possible to combine both objectives even in difficult times. In many companies, apprentice recruitment was even facilitated by an increase in the share of workers on short time.

The successful management of the financial crisis has become etched in the memory of social partners and policymakers as an excellent example of joint crisis management based on the mobilisation and coordination of all bargaining levels (national, industry, region, and company) and may be used as a model in future crises. In any event, support for cooperative relations between social partners among officials in the employers' associations increased considerably over 2005-2006. A repeat survey of managers of employers' associations showed that this change is particularly pronounced in the chemical and metalworking industries, two sectors particularly affected by the financial crisis. Besides the favourable economic situation in 2012, this change can also certainly be explained by the high levels of flexibility that collective agreements now permit and the joint approach to managing the crisis (Table 3).

Table 3. Support for social partnership among officials of employers' associations by trade union area, Germany (results given in percentage and absolute numbers)

Union area	2005/2006			2012		
	Disagreement* in %	Agreement in %	N.	Disagreement in %	Agreement in %	N.
	with the statement: 'The German social partnership is an advantage in international competition'.					
IG Metall	78.4	21.6	37	25.0	75.0	24
ver.di	82.9	17.1	41	41.2	58.8	34
IG BCE	47.4	52.6	19	18.2	81.8	11
IG BAU	72.1	27.9	43	47.8	52.2	23
Other	86.7	13.3	30	22.7	77.3	22
Total	75.9	24.1	170	33.3	66.7	114

* Including 'fence-sitters' who did not express a clear preference.

Source: Helfen, 2013, p. 484.

6. INTRODUCTION OF THE STATUTORY MINIMUM WAGE IN 2015

In January 2015, following more than 10 years of heated debate, Germany introduced a national statutory minimum wage for the first time in its history, set at € 8.50 per hour. The new minimum wage was not a 'planned child' but rather was born out of necessity. For almost a decade, virtually nobody took any notice of the rapid increase in low wages and the sharp downward extension of the wage spread because all the actors concerned – including trade unions – feared the obvious conclusion that the traditional German

wage system was no longer future-proof and needed reform. Trade unions on their own were no longer powerful enough to enforce effective low-wage thresholds in many sectors. This first became clear when the government used the 2003 Hartz reforms to further expand the German low-wage sector, which at that point was already too large by international standards. The minimum wage debates then started to move beyond expert circles and became a national issue. Attempts between 2005 and 2013 to make a statutory minimum wage redundant by agreeing industry-specific minimum wages failed. This was because the employers' associations in the largest low-wage sectors were no longer able or willing to negotiate industry-specific minimum wages with the trade unions.

A joint campaign involving all trade unions for the introduction of a statutory minimum wage was deemed impossible by many observers because of the dualisation of the labour market and the irreconcilable differences between insiders and outsiders. Palier and Thelen even claimed to be witnessing the emergence of 'a new (less egalitarian but possibly quite robust) equilibrium' (Palier and Thelen, 2010, p. 139). As proof, they cited the disputes over the minimum wage within the German trade unions, writing: 'The stronger unions are joined in their opposition to a statutory minimum wage by the main employers' federations.' (Palier and Thelen, 2010, p. 125). Adducing the emergence of stable new power configurations as evidence, they argued that the process of change had stalled, leaving the current level of dualisation 'frozen in', as it were. Well-protected core workforces were unaffected by labour market deregulation. They would now confine themselves to defending their own interests and were no longer in a position 'to perform the leadership functions they once did, providing collective goods for all' (Palier and Thelen, 2010, p. 120). Hassel was still endorsing this analysis in 2014, when all German trade unions had long been supporting the demand for a minimum wage, when she wrote: 'The capacity of service unions [...] to protect and raise wages by campaigning for a national minimum wage [...] is severely limited by the opposition of manufacturing unions' (Hassel, 2014, p. 72).

Undoubtedly, there are tensions between the interests of labour market insiders and outsiders. However, the alleged new equilibrium has never materialised. Neither companies nor trade unions have accepted this dualism, which is more accurately characterised as a state of uncertainty in which distribution and power disputes remain unresolved. Companies attempted to capitalise on the power they had gained and attack the core workforce as well. In neoliberal insider-outsider models, their good working and employment conditions are regarded as 'unjustified privileges' that act as 'barriers' to outsiders and 'obstacles' to 'full employment'. Many core jobs were outsourced to less regulated segments of the labour market and the trade unions were forced by the threat of outsourcing into concession bargaining, with cumulative consequences for other firms. On the other hand, the negative experiences of many members of the core workforce helped actors in the strong industrial unions to build on their still extant tradition of solidarity politics and support the service unions' demand for a statutory minimum wage. The joint unions' strength then became an essential power resource in implementing the minimum wage. It was further enhanced by research as another type of resource. The recent research on minimum wages conducted in the United States and the United Kingdom, as well as in Germany showed that minimum wages do not harm employment. This disrupted the neoliberal political narrative according to which the only choice is that between more inequality and more unemployment. A coalition of trade unions and SPD politicians succeeded in combining forces to construct

a new narrative whose main theme was the fight against precarious employment and social inequality. This created the link that had hitherto been missing between the service unions' demand for a statutory minimum wage and the manufacturing unions' drive for a re-regulation of temporary agency work and the prevention of outsourcing.

For a decade, the employers' associations had fought bitterly against the introduction of a statutory minimum wage. The new minimum wage was not to mark a break with the German system of free collective bargaining but to be introduced in such a way as to maintain path dependency as far as possible. Despite all their other differences of opinion, politicians, trade unions and employers' associations were as one on this point at least. When it became clear in 2014 that employers were not able to dissuade the coalition government from moving ahead with their plans, they sought an alliance with trade unions at the last moment in order to shape the minimum wage together.

The philosophy behind the industry minimum wages – namely, to strengthen the role of social partners and to revitalise collective bargaining – also underpinned the new minimum wage legislation. Due to pressure from the trade unions, the act on minimum wage became part of a legislative package entitled the 'Act on the Strengthening of Free Collective Bargaining' (*Tarifautonomiegestärkungsgesetz*) which, besides introducing the minimum wage, is also intended to expand collective agreement coverage once more and to facilitate declarations of general enforceability. The act provided for the establishment of a minimum wage commission, which was originally to be modelled on the British example. However, the two industrial unions IG Metall and IG BCE wanted to minimise political influence on the minimum wage as far as possible and were successful in doing so. In a departure from the British model, the three representatives of each side of the social partnership are nominated by their respective organisations and are not selected as individuals by the government. The two academics on the commission are proposed by the social partners, it is true, but they do not have voting rights, unlike in the United Kingdom. The government appoints an independent chairperson proposed by the social partners. The commission proposes increases in the minimum wage to the government, which enacts them through statutory order but cannot alter them. Derogations from the minimum wage are possible through collective agreements that are declared generally binding.

Two important amendments were made to the legislation at the last moment as a result of a joint initiative by employers and trade unions. In the government's bill, the level of the minimum wage was originally to be frozen until the end of 2017. In order to prevent the minimum wage from rising too sharply in 2018 and possibly causing a shock after three years of stagnation, the social partners' first amendment stipulated that the minimum wage should be increased every two years. The second amendment ensured that the benchmark for any increase in the minimum wage would be the average increases in collectively agreed rates of pay. The social partners wanted to make it clear that it should be collective bargaining that sets the pace for increases in the minimum wage. They adopted this approach also in order to avoid energy-sapping disputes and votes, in which the chairperson ultimately casts the deciding vote. In addition to this, the commission is expected to evaluate the minimum wage and present a report to the government every two years. An office was set up in order to facilitate this process.

The minimum wage commission has further strengthened the use of average increases in collectively agreed wage rates as a benchmark in a unanimously agreed amendment to its standing orders. It was decided that a two-thirds majority vote would be required in order for any deviations from this formula to be implemented. As a result, the minimum wage

has been virtually index-linked. The first increase in the minimum wage to € 8.84, which came into force on 1 January 2017, was decided unanimously in June 2016. As expected, any disputes were confined to establishing the index of agreed hourly earnings.

The minimum wage commission's first report showed that the new minimum wage regulations have led to significant wage increases in the low-paid sectors. In some cases, there have been double-digit increases for low-skilled workers in typical low-paid sectors, such as hospitality or in eastern Germany, without the reductions in employment that were forecast by many economic research institutes. The report also showed that, in April, 1.36 million workers were still earning less than € 8.50 per hour, half of them in mini-jobs and a further quarter in socially insured part-time work (Mindestlohnkommission, 2016). This high figure cannot be explained by the legal (workers under 18 years old, newspaper deliverers) or collectively agreed exceptions (for example, in the meat processing industry and several other sectors), but suggests there are still problems with monitoring and enforcement, particularly in mini-jobs.

7. CONCLUSION

The development of the German wage-setting system since 1990 demonstrates that income inequality increases rapidly as an inclusive wage-setting system is eroded – a lesson that has already been learned in other countries. Membership of employers' associations began to crumble in the changed social and economic environment following the German reunification, which was actively promoted by policymakers through product and labour market deregulation. Political pressure on the most important institutions of the German industrial relations – the collective bargaining and codetermination systems – also increased.

Collective agreements and works councils were now disappearing from broad swathes of the economy and, as a result, income inequality increased rapidly. The share of low-wage workers grew to the highest level in the EU and, since there was no minimum wage to put a floor under pay levels, the wage spread plunged downwards to a greater extent than in any other EU Member State.

Nevertheless, social dialogue continued to play a central role in Germany and in recent years has revived somewhat. Trade unions remained strong in many industries and companies, and they were able to negotiate innovative collective agreements dealing with fundamental social and economic issues. Particularly worthy of mention in this regard is the joint management of the financial crisis by means of innovative working time systems, and the recruitment of more than 540,000 trainees in the midst of the crisis in order to prevent youth unemployment from rising marked a milestone in the revitalisation of social dialogue. This crisis management through dialogue at every level (national, industrial, regional, and company) etched itself on the memory of social partners, which were all a little proud of this success. In any event, it certainly improved the attitudes of employers' associations towards social partnership and social partners, and is perhaps the blueprint to follow in the next crisis.

The introduction of the statutory minimum wage was very controversial for a long time, even among those trade unions that did not want state intervention in wage setting, which they saw as their domain. The new minimum wage was then implemented following a joint campaign by all trade unions and some political parties, against the will of employers.

However, when it could no longer be prevented, the employers' associations joined forces with the trade unions to help to shape the legislation. The minimum wage has therefore been placed in the hands of social partners to a much greater extent than in almost all other European countries – with the exception of Belgium and pre-2012 Greece.

However, the strengthening of social dialogue in recent years should not blind us to the fact that wages have increasingly become a competitive factor due to the decrease in collective agreement coverage, with bad wages squeezing out good wages and with even worse ones squeezing out bad ones. The new minimum wage only sets a floor on this wage competition and cannot by itself prevent the undercutting of more generous collective agreements. This can only be prevented by restricting certain forms of precarious work, such as mini-jobs, and by increasing collective agreement coverage.

REFERENCES

- BOSCH G. (2011), *The German labour market after the financial crisis: miracle or just a good policy mix?*, in D. Vaughan-Whitehead (ed.), *Work inequalities in the crisis? Evidence from Europe*, Edward Elgar, Cheltenham, pp. 243-77.
- BOSCH G. (2017), *Mini-jobs as an exit option for companies*, "InGenere" <http://www.ingenere.it/en/articles/mini-jobs-exit-option-companies>.
- BOSCH G., MAYHEW K., GAUTIER J. (2010), *Industrial relations, legal regulations, and wage setting*, in J. Gautier, J. Schmitt (eds.), *Low-Wage Work in the Wealthy World*, Russell Sage, New York, pp. 147-82.
- CARLIN W., SOSKICE D. (2009), *German economic performance: disentangling the role of supply-side reforms, macroeconomic policy and coordinated economy institutions*, "Socio-Economic Review", 7 (1), pp. 67-99.
- CROUCH C., FARRELL H. (2002), *Breaking the Path of Institutional Development? Alternatives to the New Determinism*, EUI Working Paper SPS No. 2002/4.
- DESTATIS (2014), *Finanzen und Steuern. Personal des öffentlichen Dienstes*, "Specialist series", 14 (6).
- DRIBBUSCH H., LEHNDORFF S., SCHULTEN T. (2017), *Two worlds of unionism? German manufacturing and service unions*, in H. Dribbusch, S. Lehdorff, T. Schulten (eds.), *Rough waters – European trade unions in a time of crises*, European Trade Union Institute (ETUI), Brussels.
- EHRENSTEIN I. (2014) *651 Unternehmen sind mitbestimmt*, "Mitbestimmung", 5, pp. 58-9.
- ELLGUTH P., KOHAUT S. (2014), *Öffnungsklauseln – Instrument zur Krisenbewältigung oder Steigerung der Wettbewerbsfähigkeit?*, "WSI Mitteilungen", 67 (6), pp. 439-49.
- ELLGUTH P., KOHAUT S. (2015), *Tarifbindung und betriebliche Interessenvertretung – Ergebnisse aus dem LAB-Betriebspanel 2014*, "WSI Mitteilungen", 68 (4), pp. 290-7.
- FERNÁNDEZ-MACÍAS E., VACAS-SORIANO C. (2013), *A coordinated EU minimum wage policy?*, Eurofound, Dublin.
- GREIFENSTEIN R., KISSLER L., LANGE H. (2011), *Trendreport Betriebsratswahlen 2010*, "Hans-Böckler-Stiftung Arbeitspapier", 231, Düsseldorf.
- HANS-BÖCKLER-STIFTUNG (2016), *Zahlen und Fakten Betriebsräte in Deutschland*, Düsseldorf, in <http://www.boeckler.de/5306.htm> (accessed 10.8.2016).
- HAIPETER T. (2011), *Unbound employers' associations and derogations: erosion and renewal of collective bargaining in the German metalworking industry*, "Industrial Relations", 42 (2), pp. 174-94.
- HAIPETER T., LEHNDORFF S. (2009), *Collective bargaining on employment*, International Labour Office, Industrial and Employment Relations Department, Dialogue Working Paper No. 3, Geneva.
- HASSEL A. (2014), *The Paradox of Liberalization – Understanding dualism and the recovery of the German political economy*, "British Journal of Industrial Relations", 52 (1), pp. 57-81.
- HELFEN M. (2013), *Sozialpartnerschaft bei Arbeitgeberverbänden: „Schnee von gestern“ oder vor der Renaissance?*, "WSI Mitteilungen", 66 (7), pp. 482-90.
- LÉVESQUE C., MURRAY G. (2010), *Understanding union power: resources and capabilities for renewing union capacity*, "European Review of Labour and Research", 16 (3), pp. 333-50.
- KORPI W. (2006), *Power Resources and Employer-Centered Approaches in Explanations of Welfare States and Varieties of Capitalism: Protagonists, Consenters, and Antagonists*, "World Politics", 58 (2), pp. 167-206.

- MINDESTLOHNKOMMISSION (2016), *Erster Bericht zu den Auswirkungen des gesetzlichen Mindestlohns*, Berlin.
- NICKLICH M., HELFEN M. (2013), *Wirtschaftsverbände in Deutschland: Mitgliedergewinnung und –bindung als zentrale Herausforderung*, Kurzstudie des Lehrstuhls für Unternehmenskooperation im Management-Department der Freien Universität Berlin, Berlin.
- OECD (1996), *Employment Outlook*, Paris.
- PALIER B., THELEN K. (2010), *Institutionalizing Dualism: Complementarities and Change in France and Germany*, “Politics & Society”, 38 (1), pp. 119-48.
- TULLIUS K., WOLF H. (2012), *Legitimationsprobleme im System industrieller Beziehungen: Krise oder Revitalisierung des sozialpartnerschaftlichen Geistes?*, “Industrielle Beziehungen”, 19 (4), pp. 367-410.
- VISSER J. (2015), *Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts (ICTWSS). An international database*, Amsterdam Institute for Advanced Labour Studies (AIAS), Amsterdam.
- WSI TARIFARCHIV [WSI pay scale archive] (2015), *Statistik Tarifbindung*, Düsseldorf, in http://www.boeckler.de/wsi-tarifarchiv_2257.htm.