

Collective Bargaining under Stress: Decentralisation and Opening Clauses in Germany

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Abstract

In the light of increasing international competition, substantial transformation problems in post-communist eastern Germany, and growing unemployment, the rather centralised system of collective bargaining and wage determination in Germany has come under attack in recent years. Applying and enforcing industry-wide agreements with high wages across firms and regions characterised by increasingly different levels of productivity and profitability has become a serious problem. More and more firms have abandoned industry-level collective bargaining in order to achieve more flexible agreements at the plant level or they have made illegal deals with their workforce allowing for wages below the contractual minima.

Trade unions and employers' associations, which both suffer from membership losses, have slowly come to accept that they must give firms more freedom and flexibility to regulate working conditions at company level. They have introduced so-called "opening clauses" and other provisions for differentiation in industry-level collective agreements, in particular in the field of working time, but recently also in the field of wages and salaries. These opening clauses enable company management and works council to conclude works agreements which deviate from the binding industry-level collective agreement within certain limits. In the chemical industry, for instance, an opening clause allows companies to reduce the collectively agreed wage by up to 10 per cent for a limited period of time in order to save jobs or improve competitiveness. Here and in most other cases, however, trade unions and employers' associations retain the right to veto such deviating works agreements. While so far there exists only anecdotal evidence on the effect of these reforms, they seem to be a proper means to save employment, to prevent firms from leaving employers' association, and to stabilise the German system of collective bargaining.

1. Introduction

In the light of increasing international competition, substantial transformation problems in post-communist eastern Germany, and growing unemployment, the rather centralised system of collective bargaining and wage determination in Germany has come under attack in recent years. More and more employers (as well as economists, politicians and journalists) are questioning the existing system and demanding more decentralised, company-related bargaining. In eastern Germany, which suffers from a "Mezzogiorno problem" of relatively low productivity and massive unemployment, many firms have abandoned industry-level collective bargaining in order to achieve more flexible agreements at the plant level or they have made (illegal) deals with their workforce allowing for wages below the contractual minima. But also in western Germany there are problems of applying and enforcing industry-wide collective agreements across firms characterised by increasingly different levels of productivity and profitability. More and more firms have threatened to leave the employers' associations unless collective agreements become more flexible.

While both trade unions and employers' associations have an obvious interest in retaining the corporatist collective bargaining system, they have slowly come to accept that they must give firms more freedom and flexibility to regulate working conditions at company level. Membership losses of both trade unions and employers' associations as well as declining coverage rates of industry-wide collective bargaining contributed to this insight. The social partners have reacted with the introduction of so-called "opening clauses" and other provisions for differentiation in industry-level collective agreements, in particular in the field of working time, but recently also in the field of wages and salaries. By taking an active part in reforming the German bargaining system in the sense of controlled decentralisation trade unions and employers' associations try to stabilize their membership and to make sure that they can play an important role in the future.

Since many of these challenges and problems are not confined to Germany but are also relevant to other European countries such as Austria or Italy, an analysis of the German experience in reforming the collective bargaining system may be of general interest - even if this process is still under way so that definite conclusions cannot be reached yet. After sketching the main institutional characteristics and the most important trends, this paper points out recent problems in collective bargaining in Germany. Various proposals for reforming and decentralising the current system of

wage determination are discussed, and the prevailing approach of introducing opening clauses in industry-wide agreements is described in detail. The concluding section deals with some implications of these reforms for the social partners and for the German system of industrial relations.

2. The Institutional Framework

In Germany structural conflicts between capital and labour are dealt with using a dual system of interest representation (for details, see Jacobi/Keller/Müller-Jentsch 1998 and Schnabel 1998): While trade unions and employers' associations are responsible for sectoral collective bargaining, works councils and management shape industrial relations at company level. Within this system, special importance is given to rather centralised collective bargaining, which predominantly takes place at the sectoral level, and here usually not at the federal but at the regional level (covering one federal state or a part of it). Exceptions are the construction industry and the public sector, where collective bargaining is conducted at the national level. In almost all industries, however, there are separate negotiations for western and eastern Germany, where economic conditions differ substantially. The regional negotiations within one sector are closely co-ordinated by the officials of the appropriate sectoral trade union and employers' associations, so that variations between them are small. Even between sectors there is some co-ordination by trade unions and employers in their behaviour, which has led to an increasing uniformity of collective bargaining policy.

Multi-employer sectoral bargaining determines blue and white collar pay (usually annually), as well as job classifications, working time and working conditions - the latter elements over longer time periods. The most important topics for negotiations in the 1980s and 1990s have been wage increases, employment security, technological change, and the reduction or more flexible design of working time. As in wage negotiations, the strongest trade union in terms of membership, the engineering union IG Metall, took on the lead in the question of working time reduction, which peaked in the biggest industrial dispute in post-war history in 1984. The result of this and succeeding collective bargaining rounds was the step-by-step reduction of the average collectively agreed weekly working time from 40.0 hours in 1984 to 37.4 hours in 1998 in western Germany and 39.3 hours in eastern Germany.

In exchange for reductions in average working hours, the employers gained more differentiation and flexibility of working time regarding individual and temporal aspects. For instance, regular working hours can differ for different groups of employees, individual working time can vary in a certain corridor without overtime bonuses etc. being paid, or "working time accounts" allow companies to deviate temporarily from the agreed average weekly working time by compensating the worker with free time within a specified period. This disconnection of individual working time and operating times has facilitated cost-cutting by lengthening machine running times and thus coping with the costs of working time reductions.

Besides the more flexible working time, since the mid-1980s other managerial measures have led increasingly to a decentralisation of industrial relations and to greater importance being attached to the plant level. These measures, such as the introduction of new technologies and organisational settings (lately in particular through "lean production" and "re-engineering"), were due to world-wide technological and structural changes as well as increased international competition. As in several other countries, new forms of employee involvement such as quality circles and teamwork have been introduced as part of a "human resource management" policy by many firms, and new actors such as work-groups and production teams have gained in importance, but they have not made traditional structures obsolete yet (see Jacobi/Keller/Müller-Jentsch 1998).

The concrete implementation of industry-level collective agreements on working time and other issues increasingly takes place through works agreements between company management and the works council. By adjusting general, sectoral collective agreements to the specific situation in the plants, the plant-level parties and their relationship gain in importance. This has certain implications for the role of the collective bargaining parties - the employers' associations and trade unions - and generally reduces their influence. In particular, on the side of the employees there is a certain friction between the industrial trade unions and the works councils, which often behave in a much more pragmatic and flexible way than the more political and ideological trade unions. Works councils are directly elected by the workforce and are formally independent of trade unions, but they seldom can be found in smaller firms (for details see Addison/Schnabel/Wagner 1997).

While on questions of working time competencies have been transferred to the plant level, regarding wage negotiations the industry level is still of crucial importance. Industry-level agreements are directly binding only for members of the respective

employers' associations and trade unions. Although not more than two out of three private firms are members of an employers' association and less than one third of employees are members of a trade union, collectively negotiated wage contracts cover about three quarters of the workforce in Germany. This is due to two special institutional features: First, constitutional law in Germany rules out any different treatment of unionised and non-unionised employees, such as union wage differentials, closed shops etc, which means that firms usually apply collectively negotiated wage rates also to non-unionised employees. Second, industry-level contract wages are regarded as minimum wages, and under certain conditions they can be extended by government regulation to all employers and workers in the industry, including those not represented in the original negotiations, but such extensions are exceptions and not the rule.

There is, however, no minimum wage legislation in Germany, and the collectively agreed norms are therefore minimum terms and working conditions. Companies bound by sectoral agreements cannot undercut, only improve upon these terms and conditions, through voluntary premiums (such as higher wages or more holidays). Since collective agreements are often settled uniformly for the whole industry with only minor regional differences, necessary and, in terms of employment policy, desirable wage differentiation between regions, sectors and plants is almost only achievable if plants pay premiums over and above the contract wage (for details, see Schnabel 1997).

3. The Current System of Wage Determination under Stress

In the 1990s, the economic shock of German unification, increasing international competition and globalisation as well as structural and technological change have posed new challenges not only for politics and business but also for trade unions and employers (see Schnabel 1998 and Hassel/Schulten 1998). The rather corporatist system of industrial relations and collective bargaining has come under stress and now shows certain tendencies of decentralisation and even erosion. Serious membership problems and corresponding reductions of influence on the side of both trade unions and employers' associations contribute to this development.

Trade union membership, which had received a boost by German unification, subsequently has fallen from 13.75 million in 1991 to 10.53 million in 1997. Less than 3 out of 10 employees in Germany nowadays belong to a trade union. Traditional

union strongholds are the public service and manufacturing industry, but union recruitment efforts have not been successful in the growing private service sector, among white-collar employees and among young employees. Unions thus have not been able to adjust their membership composition to structural and occupational change. For some unions, membership losses have caused severe financial difficulties, and this has given rise to mergers and discussions on a far-reaching reorganization of the German trade union movement. Despite these problems, however, unions' high density in strategic positions such as manufacturing means that they are still in a position to negotiate pace-setting collective agreements.

In recent years, employers' associations have come to face similar membership problems as trade unions. In most sectors there has been an increasing but not officially quantified tendency to resign from employers' associations. Also, more and more companies (in particular in eastern Germany) either fail to comply with the terms of sectoral agreements or avoid to join an employers' association and to bind themselves to collective agreements which are perceived as expensive straight-jackets. As a consequence, in some branches new employers' associations have been founded which will neither conclude, nor be bound by, industry-level collective agreements. Therefore a growing number of employers as well as economists, politicians and the media have demanded reforms of the German system of wage negotiations, in order to achieve a collective bargaining policy which should be characterized by greater differentiation, flexibility and plant orientation and which would secure jobs.

These demands must be seen against the backdrop of Germany's unemployment rate rising relentlessly since the unification boom ended in 1992, reaching record levels of almost 10 per cent in western and even 18 per cent in eastern Germany in 1997 and not changing much in 1998. To a large extent these massive employment problems are the consequence of relatively generous wages and high non-wage labour costs in both parts of Germany. An international comparison shows that in 1997 western Germany had the highest level of labour costs in manufacturing among all industrial countries, standing at DM 47.92 per hour for manual workers (see Schröder 1998). Even in eastern Germany (DM 32.97) hourly labour costs in manufacturing were higher than in the United States (DM 31.83), Italy (DM 29.96) and the United Kingdom (DM 28.62). While Germany has always been a high-wage economy, in the 1990s stronger international competition and D-Mark appreciation have made it more and more difficult for German firms to shift the burden of rising labour costs to domestic consumers or international customers.

The problem of high wage levels, which are not fully compensated for by the relatively high level of labour productivity in Germany, is closely related to the structural problem that the same industry-wide wages apply to companies with different levels of productivity and profitability. In order not to endanger the solidarity of their members, trade unions (and sometimes even employers' associations) are often not very interested in differentiated wage increases. This has led to a "copying mentality", which does not allow for differentiated negotiations regarding sectors and regions, despite formally independent sectoral trade unions and collective bargaining areas. Furthermore, since collective contract wages have increased so much, the scope for differentiation via wage drift (i. e. plants paying premiums over and above the contract wage) has narrowed considerably. Even if there are different wage agreements in different industries, there is still the problem within each industry that sectoral collective agreements can hardly take into account the particular situation of individual companies. In addition, it is often criticised that collective agreements have tried to regulate too many details and have limited the flexibility of the plants.

The fact that collectively negotiated wages in Germany, which are relatively generous by international comparison, serve as minimum wages, and the limited opportunities for wage differentiation both have turned increasingly into a problem. This is obvious in eastern Germany where trade unions have been driving hard for wage convergence to western standards - with detrimental consequences for employment (analyzed empirically by FitzRoy/Funke 1998). In 1998, sectorally negotiated basic monthly wages in the east reached about 91 per cent of the western German level. Since fringe benefits are generally lower and regular working hours are longer than in the west and since many firms in eastern Germany are not members of employers' associations and are thus not bound by sectoral collective agreements, effective hourly wages were just about 69 per cent of the western level. Average labour productivity, however, was even lower (56 per cent of the western level), so that average unit labour costs in eastern Germany are still considerably higher than in western Germany (Table 1).

In consequence, many firms in eastern Germany have problems in paying the collectively agreed minimum wages. Even between companies within the same sector there are big differences regarding productivity and performance: while newly-founded companies with modern machinery and equipment are able to pay the collectively negotiated wages, the older companies, burdened by old liabilities and dated equipment stemming from the socialist planned economy, are often unable to

do so. An analysis of companies' annual accounts by the Deutsche Bundesbank (1998) shows that in 1996 about one-third of firms in eastern Germany recorded losses, and half of the firms analysed did not have an adequate capital base. In surveys companies usually name the level and the fast growth of wages as their most important problem, and consequently many companies pay less than the collectively agreed wage, mostly through informal agreement with their workforce (for details see Brenke/Eickelpasch/Blume 1997). In the case of companies which are bound by collective agreements this is a violation of the law, but the collective bargaining parties tacitly put up with it.

But also in western Germany there are sufficient reasons for reforming the system of wage bargaining. In the past, nominal contract wages in western Germany usually increased in line with productivity and consumer prices, with unemployment exerting just a minor dampening effect on wage rises (for empirical analyses see Carruth/Schnabel 1993, Schnabel 1997). By ignoring the interests of unemployed "outsiders" and redistributing productivity increases resulting from lay-offs, the trade unions (who mainly represent the employed "insiders") pushed through excessive wage increases which resulted in temporary employment losses becoming permanent. After a period of wage moderation and employment growth in the 1980s, high wage increases exacerbated by reductions in working time, growing non-wage labour cost arising from the social security system and from massive transfers to eastern Germany, and the revaluation of the D-Mark have contributed to the massive employment problems in the 1990s.

In the light of all these problems, the trade unions have adopted a more moderate, employment-oriented wage policy since 1996, which has helped to improve the international competitiveness of German companies and to secure jobs. What is also needed, however, are structural reforms of the collective bargaining system including a more flexible design of collective agreements and greater scope for plant-level agreements.

4. Centralised vs. Decentralised Collective Bargaining

The institutional design of the existing system of collective bargaining in Germany is based on the reasoning that relatively centralised collective bargaining between encompassing trade unions and employers' associations can lower transaction costs and internalise external effects of wage-setting (as discussed by Calmfors 1993).

Through negotiations at the branch level the relationship between management and works councils usually is only marginally affected by conflicts about wages and working conditions. Strikes may only be called as a last resort in a collective bargaining round by the industrial trade unions, and works councils do not have the right to strike. The centralisation of collective bargaining thus is a peace-keeping element, which improves social partnership at the plant level. International empirical research has shown that countries with centralised collective bargaining and attitudes of social partnership have significantly fewer days lost due to strikes than countries in which bargaining takes place at the plant level (Schnabel 1997).

These advantages of relatively centralised sectoral collective bargaining must be compared with disadvantages in the field of employment. Theoretically, the goals of wage differentiation and employment security can better be reached through stronger orientation towards the individual situation of single companies (as proposed, for instance, by Berthold/Fehn 1996). A radical consequence of this insight and of the criticism regarding inflexible sectoral agreements mentioned above would be to abolish the existing system of sectoral collective bargaining and to replace it with a system of company agreements between single employers and trade unions.

Currently there are already about 5,400 companies in eastern and western Germany which bargain independently about wages and employment conditions and which usually do not belong to an employers' association. Prominent examples are Volkswagen and Lufthansa. According to the Federal Ministry of Labour and Social Affairs the number of companies concluding company agreements has more than doubled since 1990, indicating a growing decentralisation of collective bargaining in Germany, and particular in eastern Germany (Table 2).

Despite their growing importance, however, in the private sector only 9 per cent of establishments in western Germany and 14 per cent in eastern Germany were covered by company agreements in 1997. Sectoral collective agreements still dominated; they covered 49 per cent of western and 26 per cent of eastern German establishments employing 65 and 44 per cent of the workforce, respectively (see Bellmann/Kohaut/Schnabel 1998). Newly founded firms and smaller establishments (which often feel insufficiently represented in the bargaining policy of employers' associations) are less likely to be bound by industry-wide agreements, whereas big firms predominantly believe in the virtues of sectoral collective bargaining.

One of the reasons for the persistence of sectoral bargaining may be that while bargaining on their own may be helpful for some companies, an overall strategy of dumping the industry-level agreements also has its disadvantages: When bargaining generally takes place at the plant level, industrial conflict will also be transferred to this level and strike frequency is likely to go up. This can weigh heavily on the working atmosphere in the plants. When companies and workforces negotiate individually, they have to be aware of the fact that they cannot count on the solidarity of other employers and employees and that this can lead in some cases to very undesirable results. There are already some signs that companies do not necessarily fare better when concluding company agreements: wage costs at Volkswagen, for instance, are substantially higher than in the industry-level agreement for the metalworking industry. The "insiders"-orientation of wage determination might even be strengthened by generally negotiating at the plant level, where employees are more concerned with job preservation than with employment growth. In general, decentralised negotiations make it more difficult for both parties to control and moderate the development of wages in the whole economy.

Empirical evidence also does not clearly favour plant-level bargaining. An econometric comparison of 30 company and 30 industry bargaining units in western Germany by Meyer (1992) indicates that company agreements do not show higher flexibility than industry-level agreements. Various international analyses have not found statistically significant, robust relationships between measures of economic performance and collective bargaining (see, e. g., OECD 1997 and Schnabel 1997). The thorough theoretical analysis by Moene/Wallerstein/Hoel (1993, 120) even concludes that "(i)n the presence of strong, cohesive unions, a mixed system of centralized bargaining over the base wage and subsequent firm-level bargaining under a peace clause may be the best compromise between divergent concerns."

Because of the various advantages and disadvantages and the virtual impossibility to identify the best-working system, it appears sensible not to dump the whole existing system of collective bargaining, but to implement reforms within the system which can minimise its problems as far as possible. The main aim should be to maintain the transaction costs saving and peace keeping function of industry-level wage negotiations, while at the same time increase flexibility, plant orientation and the possibility to differentiate within collective bargaining agreements. Industry-wide agreements should primarily determine the most important framework conditions, but instead of regulating wages and working conditions for every plant down to the

smallest detail they should give the plants more scope for their own actions. This is the course of reform many German industries have followed recently.

5. Reforming Collective Bargaining: The Role of Opening Clauses

Over recent years trade unions and employers' associations have reacted to the mounting criticism by introducing certain elements of flexibility and decentralisation into industry-level collective agreements, which shift bargaining competence to the plant level. According to the German Works Constitution Act the social partners at plant level (i. e. the management and the works council) are usually not allowed to conclude works agreements on collective bargaining issues because these are to be dealt with by trade unions and employers. The only exception is when the relevant trade union and employers' association delegate issues to the plant level by stating this explicitly in their industry-level collective agreement through the introduction of so-called "opening clauses" (also named emergency or exit clauses) which define the scope and limits of plant-level regulations.

Since the mid-1980s, a growing tendency towards the use of opening clauses has been observed in the field of working time. As already mentioned above, most of the industry-level collective agreements on the step-by-step reduction of weekly working hours contained opening clauses which allowed for plant-level negotiations on the distribution of working time in order to increase productivity by detaching individual working time from the operating hours of the establishment. Due to such opening clauses, decisions concerning the beginning and end of daily working time, working time fluctuations, overtime work etc. usually are taken by the social partners at plant level. Over the years, this has resulted in an increasingly flexible use of working time at the plant level.

A new stage in this development towards modernisation and decentralisation of collective bargaining has been reached by recent agreements in several industries which for the first time agreed opening clauses relating to the core of wages and salaries. Generally these opening clauses enable management and the works council to conclude works agreements which deviate from the industry-level collective agreement within limits stated therein, but the degree to which trade unions and employers' associations are involved in finding a special solution can differ considerably. Opening clauses may be put into four categories (see Table 3 and Schnabel 1998):

1) *Hardship clauses*: As early as 1993, the trade union and the employers' association in the eastern German metalworking industry agreed on the introduction of so-called "hardship clauses". These enable companies to apply to be exempted from the industry-level collective agreement and its high wages if they are close to bankruptcy and have a promising strategy for economic viability. If the collective bargaining parties both accept that there is a case of hardship they themselves must negotiate a firm-specific agreement (otherwise the original collective agreement is being upheld). This can lead to the rather awkward situation that the collective bargaining parties do not reach an agreement while the management and works council at plant level would have no problems of finding a solution. According to Hickel/Kurtzke (1997), only 98 out of 181 applications for hardship clauses were accepted in the eastern German metalworking industry in the period 1993 to 1996. Another, more restricted hardship clause has been introduced in the paper and plastics industry in 1997. Here the collective bargaining parties can allow firms to reduce or postpone annual bonuses if this is combined with an employment guarantee.

2) *Opening clauses with veto rights*: In contrast to hardship clauses, opening clauses with veto rights enable the social partners at plant level (i. e. management and works council) to negotiate a firm-specific works agreement, but the collective bargaining parties (i. e. trade union and employers' association) retain the right to veto such a works agreement. Since the final decision on the application of the opening clause lies not with the plant-level actors but with trade unions and employers' associations, the latter are able to keep control of bargaining. Their veto rights, however, could also inhibit the newly introduced bargaining flexibility.

In 1997, after threats of several companies to leave the employers' association, the social partners in the chemical and rubber industry in western Germany introduced such an opening clause with veto rights in the national pay framework agreement (for details see Schulten 1997). The opening clause allows companies to reduce the collectively agreed wage by up to 10 per cent for a limited period of time in order to save jobs and/or improve competitiveness. In the same agreement, however, those chemical firms which are doing well economically are asked to let their employees participate in their profits. Although not more than 29 chemical companies made use of this opening clause in 1998, it provides a valuable "safety valve" in cases of emergency and thus helps to stabilize the acceptance of industry-wide collective agreements. A similar opening clause

allowing for pay reductions of up to 10 per cent can be found in the eastern German construction industry, but here vetoes by the collective bargaining parties even can be overruled by the company works council. Other opening clauses concern the reduction or postponement of annual bonus payments, for example in the paper industry in western and eastern Germany.

- 3) *Opening clauses without veto rights:* These clauses enable company management and works council to conclude works agreements which deviate from the industry-level collective agreement within limits stated therein. Since trade union and employers' association have not retained veto rights, such clauses offer relatively flexible and far-reaching opportunities for firm-specific solutions of wage problems. In the western German textiles and clothing industry, for instance, companies in economic difficulties are allowed to postpone the collectively agreed wage increases if they renounce making redundancies (again, companies with high profits are asked to let their employees participate). In the printing industry in western and eastern Germany, an opening clause without veto rights allows companies to postpone the payment of annual bonuses. It should be noted, however, that all opening clauses may only be used jointly by company management and works council, and that neither party is allowed to use strikes or lock-outs when negotiating a works agreement.
- 4) *Small enterprise clauses:* Some industry-level collective agreements pay special attention to the often more difficult economic situation of small enterprises by allowing these companies to reduce wages below the collectively agreed level without any veto rights by trade unions or employers' associations. In the eastern German retail trade, for instance, companies with up to 15 employees may pay 6 per cent less than the collectively agreed wage rate, and for companies with up to 5 employees the maximum reduction is even 8 per cent. Similar small enterprise clauses without veto rights can be found in the eastern German wholesale trade and in the printing industry.

Over the last years, different sorts of opening clauses concerning wages have been introduced in many branches in western and eastern Germany (see also Bispinck 1997). This has not been the case, however, in the traditionally most important industry in the private sector, namely metalworking and engineering in western Germany. There, the trade union IG Metall and the employers' association Gesamtmetall have rather different concepts on how to modernise the current system, which seem to be incompatible (for details see Hassel/Schulten 1998). In

consequence, the metalworkers' union fiercely opposed individual contracts between the radiator manufacturer Viessmann and its employees in which the company committed itself not to transfer the production of gas heaters to the Czech Republic and not to make employees in Germany redundant in exchange for an unpaid increase in weekly working time. Finally, the dispute was settled out of court by firm-specific modifications to the existing industry-level collective agreement. The prominent example of Viessmann illustrates, however, that in the face of mounting international competition more and more companies are looking for ways to opt out of the collective bargaining system if they are not offered legal options for adjusting pay and working conditions to their firm-specific needs, for example via opening clauses.

6. Conclusions

In the 1990s, the shock of German unification, the increasing pressure of international competition, and the massive employment problems in western and eastern Germany have posed new challenges for the collective bargaining parties. On the one hand, trade unions and employers' associations have declared their intention to continue with industry-level collective bargaining which is in their own organisational interest. On the other hand, the growing tendency of companies to opt out of the collective bargaining system by resigning from employers' associations and/or by concluding special (and often illegal) agreements with their workforce has forced trade unions and employers' associations to start reforming the current system and bringing companies back into the legal framework of industry-level collective agreements.

The social partners have reacted with the introduction of opening clauses and other provisions for differentiation in industry-level collective agreements, in particular in the field of working time, but recently in the field of wages and salaries, too. The connection between pay and employment is also acknowledged in the collective agreements of several industries that allow companies to pay newly-hired employees who have been long-term unemployed only 90 per cent of the collectively agreed wage rate. The rather moderate wage increases agreed in 1996, 1997 and 1998 are another sign of the social partners' willingness to tackle Germany's massive labour cost and employment problems and to preserve the traditional system of industry-level collective bargaining, albeit in a modernised form.

Within this system, the introduction of opening clauses means a substantial shift of regulative competence from the sectoral collective bargaining parties to the plant-level actors. In particular the trade unions have hesitated to do so because they fear a loss of power and influence in favour of the formally independent company works councils. Although works councils are mainly made up of union members, they often behave in a much more pragmatic and flexible way than the more political and ideological trade unions. The new, more flexible collective bargaining policy demands a certain degree of new thinking among trade unions and employers' associations. Both have to reduce their competence when designing industry-level collective agreements and both have to expand drastically their services for members, if they do not want to lose more members and jeopardize their own existence.

The growing tendency of firms not to join employers' associations and to conclude company agreements with trade unions as well as the introduction of opening clauses in collective agreements shifting competences to the management and works council at plant level both illustrate that the German system of industrial relations is in a process of decentralisation. After neglecting its problems for too long, the social partners in most industries now have started to modernise the collective bargaining system in the sense of controlled decentralisation. While so far there exists only anecdotal evidence on the effects of these reforms, they seem to be a proper means to save employment, to prevent firms from leaving employers' associations, and to stabilise the German system of collective bargaining. It may, however, be a little premature to draw definite conclusions from this ongoing experiment and to generalise these insights. Whether a similar course of reforms in collective bargaining can be pursued in other countries such as Italy, which have different traditions of industrial relations and different institutional settings, is an open question.

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Table 1: Labour costs and productivity

- Eastern German levels in per cent of western German levels -

Year	Hourly labour costs	Hourly productivity	Unit labour costs
1991	49.1	32.5	151.0
1992	56.0	41.1	136.2
1993	61.0	48.2	126.5
1994	64.7	51.8	124.9
1995	67.1	53.5	125.5
1996	68.4	55.6	123.1
1997	69.6	56.7	122.7
1998	69.2	55.8	123.9

Source: Federal Statistical Office, own calculations

Table 2: The number of companies with company agreements

Year	Western Germany	Eastern Germany	Total
1990	2,100	450	2,550
1991	2,300	850	3,150
1992	2,422	1,178	3,600
1993	2,562	1,404	3,966
1994	2,689	1,445	4,134
1995	2,924	1,588	4,512
1996	3,081	1,652	4,733
1997	3,293	1,685	4,978
1998	3,606	1,765	5,371

Source: Federal Ministry of Labour and Social Affairs

Table 3: Opening clauses concerning wages and salaries

type of opening clause	role of collective bargaining parties (i.e. trade unions and employers' associations)	examples of industries with such opening clauses
hardship clause	must agree on companies' application to be exempted from the industry-level collective agreement and must then negotiate a firm-specific agreement	metalworking and steel industry in eastern Germany; paper and plastics industry in western and eastern Germany
opening clause with veto rights	must approve or may veto any works agreement deviating from the industry-level collective agreement	chemical and rubber industry in western Germany; paper industry and travel agencies in western and eastern Germany; construction in eastern Germany
opening clause without veto rights	may not veto works agreements deviating from the industry-level collective agreement within given limits	textiles and clothing industry in western Germany; newspapers in eastern Germany; printing industry in western and eastern Germany
small enterprise clause	may not veto works agreements deviating from the industry-level collective agreement within given limits	retail and wholesale trade in eastern Germany; printing industry in western and eastern Germany

Source: Confederation of German Employers' Associations collective agreement archive, own compilation (Schnabel 1998)