

Decentralisation of German Collective Bargaining? Current Trends and Assessments from a Works and Staff Council Perspective

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The German system of collective bargaining has always been characterised by a highly differentiated interplay of sectoral-level and company-level regulations: while trade unions and employers' associations agree on certain minimum conditions at sectoral level, management and works or staff councils implement the sectoral agreements and negotiate additional social benefits at company level. In the 1990s, however, there was a significant shift towards company-level bargaining that threatened to unsettle the traditional equilibrium between these two levels. Although the core system of sectoral bargaining is still strong, a further shift towards decentralisation could undermine the foundations of the traditional German "dual system" of industrial relations in the longer term. The majority of works and staff councillors view this trend with scepticism and see a need for new sectoral-level initiatives in many fields of bargaining policy.

1

The ongoing debate over the German sectoral collective bargaining system

For more than a decade now, an apparently never-ending debate has been raging in Germany over the fundamental structures of the German collective bargaining system. Neo-liberal economists and politicians are pushing for a radical move away from the principle of sectoral collective bargaining and towards a completely decentralised system of solely company level bargaining. Even though this group is still only a highly vocal minority, the picture of "outdated collective bargaining structures" has become part and parcel of the public perceptions of this debate. As a result, many parties involved are calling for fundamental reforms to the German collective bargaining system and the extensive relocation of negotiations to company level; this is particularly evident in the recent demands for changes to the so-called "favourability principle" (*Günstigkeitsprinzip*)¹ and the abolition of the prohibition for works councils to conclude collective agreements (Pfarr 2003).²

The political and ideological debate over sectoral agreements has generally ignored the fact that the German collective bargaining system has been undergoing far-reaching changes since the beginning of the 1990s (Bahnmüller/Bispinck 1995;

Bispinck/Schulten 1999) – although it must be said that the de facto extent of these changes is still widely disputed. Whereas some authors (Bergmann et al. 1998) have already written about a fundamental crisis of the German collective bargaining system, other commentators (Bahnmüller 2002) claim that – despite all changes and differentiation – the sectoral collective agreement is still the central structural element in the area of negotiated provisions and regulations.

What can be stated with certainty is that the collective bargaining coverage in Germany has shown a significant decline in recent years. According to the findings of the "IAB Establishment Panel" based on a survey of management executives, the percentage of employees in west Germany covered by a sectoral collective agreement fell from 72 % in 1995 to 63 % in 2000 (Kohaut/Schnabel 2001: 20). The corresponding figure for east Germany in 2000 is even lower at 46 %. Even though around half of all employees who are not formally covered by a collective agreement enjoy working conditions that are still geared towards existing collective agreements Germany meanwhile has the second-lowest degree of collective agreement coverage in the European Union after the UK (Behrens/Traxler 2002).

Alongside this external erosion of sectoral collective bargaining, there are also signs of an internal erosion leading to a situation characterised by the de facto undermining of the normative influence of col-

lective agreements despite their continued formal existence. This internal erosion is reflected by the various trends towards a decentralisation of collective bargaining from sectoral to company level. It is possible to make a basic distinction between controlled decentralisation, where the conditions and content of company level bargaining are stipulated by the bargaining

1 According to the German Collective Agreement Act departures from regulations laid down in collective agreements are only possible when they are in favour of the employees. In recent years there has been an ongoing debate on the meaning of "in favour". In particular the German employers' associations argue that even a reduction of pay or an extension of working time could be "in favour" of the employee, if this measure would save his job. However, the German Federal Labour Court had recently rejected such an interpretation, since it would create a significant threat to the validity of sectoral collective agreements (Schulten 1999).

2 The prohibition is laid down in Article 77, Para. 3 of the German Works Constitution Act.

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Table 1: Collective bargaining coverage in the private and public sector*

	WSI Works and Staff Council Survey 2002		IAB-Establishment Panel 2001	
	Number of employees in %		Number of employees in %	
	Private sector	Public sector	Private sector	Public sector
Collective bargaining coverage				
In total	88	86	82	87
By sectoral agreement	70	82	69	81
By company agreement	18	4	14	6
Not known	4	13	<1	1
No collective agreement	8	2	14	12
Of which: use existing sectoral agreements as orientation				
Yes	47	60	72	24
No	47	34	27	76

* Including all private and public establishments with at least 20 employees, and a works or a staff council.

Source: WSI Works and Staff Council Survey 2002 (3rd Survey); IAB Establishment Panel 2001.

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parties at sector level – through instruments such as “opening clauses”, for example – and uncontrolled decentralisation characterised by the de facto undermining of existing collectively agreed standards at company level (Bispinck/Schulten 1999).

While there is a wide range of data and information concerning the development of collective bargaining coverage, there is little or no empirically grounded information on the quantitative extent of this “internal erosion” of sectoral collective bargaining. The empirical studies and articles on this topic (Artus 2001; Artus et al. 2000; Bahn Müller 2001, 2002; Bahn Müller et al. 1999; König et al. 1998; Oppolzer/Zachert 2000) are focused on specific sectors and/or regions and provide an extremely differentiated and uneven picture of the overall situation. The findings of the *WSI Works and Staff Council Survey* provide the first representative overview of the actual status of the decentralisation of German collective bargaining. The data outlined below is based on the third survey conducted in 2002 and comprises a representative cross section of private and public establishments with at least 20 employees which have a works or staff council.³

2

Collective bargaining coverage in bargaining with works or staff councils

The companies in the WSI survey exhibit an extremely high collective bargaining coverage – 88 % of the companies and 86 % of the public sector establishments. The figures also show that the sectoral collective agreement is by far the most important form of agreement (70 % of companies and

82 % of public sector establishments). In addition, there is also a relatively high percentage of companies (18 %) where company-level agreements are in place. And even among the companies that are not formally covered by a collective agreement, there is a large group whose working and income conditions are geared towards existing collective agreements.

At first glance, the findings of the WSI survey would appear to contradict the aforementioned data from the IAB Establishment Panel, which indicate a clear decline in collective bargaining coverage. For the year 2000, for example, the IAB figures indicate that only 45 % of west German and 23 % of east Germany companies are still covered by a sectoral collective agreement (Kohaut/Schnabel 2000: 6). In contrast to the WSI survey, however, the IAB Establishment Panel includes not only companies without works or staff councils but also very small companies with five and more employees. If the two surveys are analysed on the basis of the same company category (i.e. companies with employee or staff council and at least 20 employees), there is a high degree of correlation between the WSI survey and the IAB panel in the area of collective bargaining coverage (Table 1).⁴

This suggests that it is above all the smaller companies that are no longer covered by collective agreements. Both the WSI and IAB surveys come to the conclusion that there is a high level of positive correlation between extent of collective bargaining coverage and size of company. At the same time, certain sector-specific differences are also apparent – with above-average coverage in the traditional industrial sectors and well below-average coverage in some parts of the private service sector. There is also a substantial West-East divide in the area of

coverage. Overall, however, the blanket claim that there is an overall external erosion of sectoral bargaining needs to be put in perspective. The majority of employees still appear to be covered by relatively stable sectoral agreements, while the erosion of bargaining coverage is particularly noticeable at the fringes – in traditionally poorly unionised very small companies and in the sectors in which these companies are predominantly active.

Moreover, the ongoing process of corporate restructuring is putting pressure on the traditional bargaining system with its long-established demarcation lines. Around one in four of all works and staff councils said that certain activities had been outsourced from their companies during the two years prior to the survey (Table 2). The former bargaining coverage was retained in only around one in three of the outsourced companies. A new collective agreement was adopted in 29 % of cases, while 14% of works councils and 10 % of staff councils said that the outsourcing measures were accompanied by withdrawal from the relevant collective agreement. No information was provided on coverage in the outsourced companies in around 20 % of cases. Overall, the figures indicate a marked dynamic of change that generally results in shifts of emphasis within the existing collective agreement structures; however, this dynamic has also promoted a trend towards an overall decline in collective bargaining coverage.

3

Different forms of decentralisation of collective bargaining

While the German system of collective bargaining gives the external impression of being quite stable despite the decline in coverage, the hypothesis of the “crisis of sectoral bargaining” is primarily based on

³ For more information on the methodology of the WSI Works and Staff Council Survey, see the article by Claus Schäfer in this volume. For an evaluation of the second WSI Survey in 1999/2000 with particular emphasis on collective bargaining and pay aspects, see Bispinck (2001) and Bispinck/Schulten (2002).

⁴ We would like to thank Peter Ellguth for the calculation of the IAB data.

indications of its internal erosion as reflected by the various ways in which bargaining policy is being decentralised. One obvious indicator for this internal erosion of the German system of collective agreements is the practice of “uncontrolled decentralisation”, whereby companies covered by collective agreements actually violate the legally binding norms of the valid collective agreements (Table 3). According to the surveyed works councils, around 10 % of companies undercut the collectively agreed standards “occasionally” in the year 2000, while 5 % of companies were “frequently” guilty of this. The biggest proportion (22 %) of companies who violate valid collective agreements are found in the construction industry. Compliance with collective agreements would appear to be far more pronounced in the public sector. In this area, only 5 % of employers “occasionally” go against collective agreements according to the surveyed staff councils. In east Germany, the percentage of companies that occasionally or frequently undercut collectively agreed standards is still considerably higher (at 21 %) than in west Germany, where only 14 % of works councils complain of such violations. Even allowing for the possibility that the figures for the works and staff councils are understated due to the contentious nature of the question, the results have remained remarkably stable since the first WSI survey in 1997/98.

There have, however, been changes in the relative importance of the areas in which this undercutting of collectively agreed standards has taken place. Whereas the first WSI survey in 1997/98 came to the conclusion that most violations occurred in the area of working time provisions, it is meanwhile the case that the highest number of infringements is now found in the area of wages and salaries (Table 3). Based on the overall group of companies where such violations occurred, 57 % of the works councils and 75 % of the staff councils say that collectively agreed wage and salary standards were undercut in the year 2002. Working time issues take second place (36 % of works councils and 26 % of staff councils), followed by violations in the area of bonuses and allowances as well as special end-of-year payments.

While the practice of “uncontrolled decentralisation” characterised by obvious violations of agreed standards appears to be limited to a relatively confined segment of companies, “controlled decentralisation” in

Table 2: Collective bargaining coverage in outsourced companies

– Answers of works and staff councils in % –

	Private sector	Public sector
Number of establishments which have outsourced some of their activities during the last 2 years	27	23
Of which: had consequences for collective bargaining coverage:		
Previous coverage still applies	32	36
Expiry of coverage	14	10
Covered by another collective agreement	29	29
No information	19	21

Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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Table 3: Breaches of collective agreements

– Answers of works and staff councils in % –

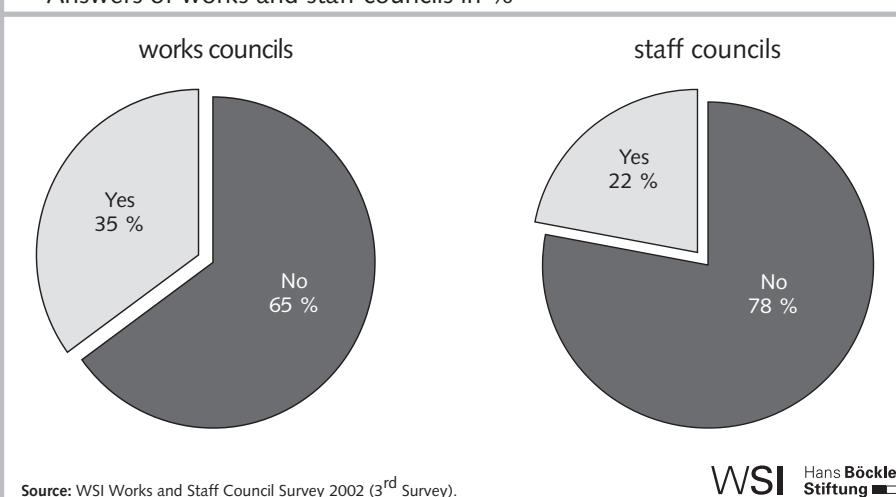
	Private sector			Public sector	
	1997/98	1999/2000	2002	1999/2000	2002
No	80	85	82	85	91
Yes	18	15	15	3	5
– occasionally	15	11	10	3	5
– frequently	3	4	5	< 1	< 1
Areas:					
– Wages and salaries	39	58	57	74	75
– Working time	57	40	36	27	26
– Bonuses, allowances,	31	27	32	19	17
– Special end-of-year payment	24	35	21	5	4

Source: WSI Works and Staff Council Survey 1997/98, 1999/2000 and 2002 (1st, 2nd and 3rd Survey).

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Fig. 1: The use of opening clauses at establishment level

– Answers of works and staff councils in % –



Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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the form of collectively agreed “opening clauses” is meanwhile fairly widespread. Indeed, there are hardly any sectors that do not operate “opening clauses” that allow specific deviations at company level from the standards laid down in the sectoral collective agreement (Bispinck/WSI-Tarifarchiv 2003a). For the first time, the WSI Works and Staff Council Survey supplies quantitative data that enable us to assess the de facto application of “opening clauses” at company level. According to the figures, 35 % of works councils and 22 % of staff councils say that the employers make use of “opening clauses” in their establishments.⁵

In terms of content, the collectively agreed “opening clauses” are primarily used in the field of working time arrangements (Table 4). By far the most important area of application is that of “variable working time”, as stated by over two thirds of all works and staff councils in companies with operational clauses of this kind. Moreover, 41 % of the private companies make use of

⁵ In the second WSI survey in 1999/2000, the percentage of works councils who said that use was made of “opening clauses” was still considerably lower at 22 % (Bispinck 2001: 30).

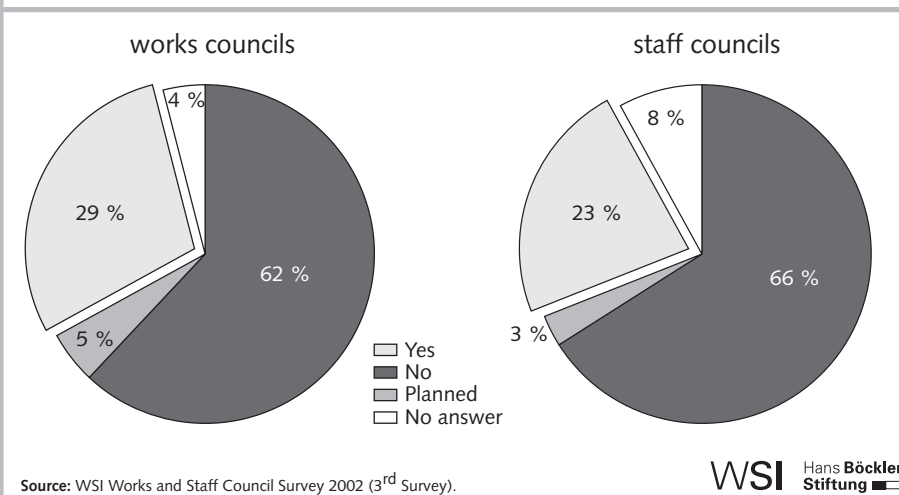
Table 4: Areas of application of "opening clauses" at company level *
– Answers of works and staff councils in % –

	Private sector	Public sector
Variable working time	70	68
Extension of working time	41	16
Temporary working time reduction	24	50
"Entrance pay" for newly-hired employees	17	14
Reduction or postponement of annual bonuses	15	15
Postponement of collectively agreed pay increases	10	3
Reduction or postponement of holiday pay	9	4
General "hardship clause"	7	8
Reduction of collectively agreed basic pay	6	6

* as % of all establishments that make use of "opening clauses"
Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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Fig. 2: Company pacts for employment and competitiveness
– Answers of works and staff councils in % –



these clauses to extend working time, while 24 % use them for temporary working time reductions. In the case of the staff councils, however, the priorities for the application of "opening clauses" are the other way around: 50 % of staff councils specify "temporary working time reductions" compared to a mere 16 % for "extended working time".

Pay-related "opening clauses" are used by around one in six of the companies and public sector establishments to implement lower "entrance pay" as well as "reduction or postponement of annual bonuses". In contrast, the practice of reducing basic pay levels – whether by "postponing of agreed pay increases" or "reducing collectively agreed basic pay" – plays only a minor role. The same applies to recourse to the general "hardship clauses", which are used in only 7 % of private companies and 8 % of public companies.

It is important to differentiate when assessing the importance of "opening clauses" for the development of the German collective bargaining system. The increasing use that is being made of these clauses appears to confirm the trend towards decen-

tralisation of bargaining policy to company level. However, these clauses are mainly implemented in the area of working time, a field in which the collective bargaining parties have gradually extended the room for manoeuvre at company level, allowing a significant number of companies to make use of the various options. On the other hand, the collectively negotiated provisions at sectoral level enjoy clear priority when it comes to pay issues (in particular in the area of collectively agreed basic pay), and deviations at company level based on opening clauses are still only seen in a small minority of cases.

Alongside the increasing spread of collectively agreed "opening clauses", the creation of "company pacts for employment and competitiveness" in the 1990s signalled the advent of a new form of company-level labour relations that underpinned the trend towards decentralisation of collective bargaining. Despite the variety and the different emphases of these "company pacts" (Seifert 2002), their general focus is on a process of in-house bargaining in which the employees make certain concessions in the area of working time or pay in return

for a (generally limited) employment guarantee.

In the current WSI Survey, 29 % of works councils and 23 % of staff councils say that they have entered into a "company pact for employment and competitiveness". Relative to the findings of earlier WSI Surveys, therefore, the percentage of companies with such an arrangement is relatively stable (Mauer/Seifert 2001). At 46 %, the figure for the big companies (with over 1,000 employees) is well above the average, and the percentage tends to decline in accordance with company size. Company pacts are especially common in the industrial sectors as well as in transport/communications and banking/insurance. In contrast, company pacts are clearly under-represented in the retail trade as well as in other private service sectors.

There are three kinds of basic relationship between company pacts and collective agreements. *In the first case*, the concessions by the employees can concern additional payments at company level, meaning that they have only indirect effects on bargaining policy (e.g. – the creation/reinforcement of a negative wage drift). *In the second case*, company pacts may relate to collectively agreed provisions and make use of the agreed "opening clauses". According to the findings of the current WSI survey, 42 % of works councils and 27 % of staff councils report on the use of agreed "opening clauses" within the context of company pacts (Table 5). *In the third case*, the provisions agreed within the framework of a company pact may openly violate valid collective agreements. It must be said, however, that the percentage of establishments which set up a company pact while also undercutting collectively agreed standards is not significantly higher than in the overall group of surveyed establishments. Moreover, the fact that the overwhelming majority of company-level alliances are signed on the basis of a works agreement indicates either that the content of these pacts relates to additional company benefits or that an "opening clause" is used with regard to collectively agreed provisions.

Pay policy at company level

Over the last few years, there has been an intensive debate over the reorganisation of pay policy at company and sectoral level. One of the focal points of the debate is the reform of the pay systems – as illustrated by the negotiations on the new framework pay agreement in the metal industry, where the 2002 bargaining round made initial progress after several years of stalemate (Bispinck/WSI-Tarifarchiv 2002). The pay structures have, however, also been revised in other sectors, such as the chemical industry, the construction sector, the energy industry, and in the formerly state-owned and now-privatised companies (Deutsche Telekom, Deutsche Post) to name but a few. At the same time, attention has been increasingly focused on the introduction and reorganisation of performance and profit-related pay systems (Bahnmüller 2001). Although there is a long tradition of regulating the relation between pay and performance within collective and works agreements, the provisions may vary widely between companies in practice. While provisions on the “classic” form of performance-related pay are generally regulated in great detail, the creation of norms in the area of profit- or result-related pay is still in the early stages.⁶ This is also due to the widespread scepticism on the part of the trade unions with regard to market-based remuneration systems. In the WSI Works and Staff Council Survey, we asked about both issues – performance and profit-related pay systems.

4.1 PERFORMANCE-RELATED PAY

More than half of all works councils (57 %) say that performance-related pay components are in place for the employees in their company (Table 6). The figures show a clear positive correlation between the existence of these concepts and the size of company. The percentage of companies with performance-related pay components increases from 50 % in companies with between 50 and 100 employees to 71 % of companies with over 1,000 employees. Performance-related pay concepts are found to a far higher-than-proportional degree in the banking/insurance sector (74 %) and are in

Table 5: Type of agreement on “company pacts for employment and competitiveness” and use of collectively agreed “opening-clauses”*
– Answers of works and staff councils in % –

	Private sector	Public sector
Type of agreement		
Works agreement	78	62
Other written agreement	13	28
No information	9	10
Company pacts which use collectively agreed “opening-clauses”		
No	39	45
Yes	42	27
... on working time	19	8
... on pay	5	0
... on working time and pay	18	19
No information	19	27

* as % of all companies in which an agreement is in place
Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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Table 6: Performance-related pay components
– Answers of works and staff councils in % –

	Private sector	Public sector
No	37	76
Yes	57	18
Yes, in the blue-collar segment	49	9
Of which		
– piecework pay	18	29
percentage of employees covered	45	54
– bonus-related pay	38	32
percentage of employees covered	52	32
– target agreement	11	8
– other	9	19
Yes, in the white-collar segment	39	9
– target agreement	43	50
– other performance assessment criteria	40	43
– combination of both	11	No answer
Yes, in the case of management employees	31	2
Yes, in the case of civil servants	–	8
Written agreement		
– no	20	16
– yes	52	73
Of which		
– collective agreement	38	29
– works agreement	75	49
– other	12	19

Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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place in an above-average number of companies in the capital goods industry (63 %), the retail trade (62 %) and transport/communications (62 %). In the public sector the concept of performance-related pay is far less widespread (only 18 % of cases).

In the *blue-collar* segments, some type of performance-related pay system exists in 49 % of companies. Bonus-related pay (38 %) is far more common than traditional piecework systems (18 %). In 11 % of companies with performance-based remuneration systems, performance-based wage structures based on target agreements are already in place for blue-collar employees. Based on the average figures, 45 % of blue-collar employees are covered by piecework remuneration systems and 52 % by bonus-based systems.

In the *white-collar* segment, performance-related pay components exist in

around 40 % of cases. In around 43 % of companies, performance-related pay is based on target agreements, while 40 % of companies use other criteria for performance assessment; a combination of both systems is practised in over one in ten companies.

According to the works councils, management executives are covered by performance-related pay provisions in around one in three companies. The percentages are above average in the transport and communication (71 %), banking/insurance (61 %) and retail sectors (54 %), but well below the average in the construction industry (19 %) and the other service sectors (33 %).

⁶ On the status of company-level provisions, see Bahnmüller (2001) and Klein-Schneider (1999). On collective agreements, see Bispinck (2000).

Table 7: Profit-related pay components

– Answers of works and staff councils in % –

	Private sector	Public sector
No	59	92
Yes	34	2
Of which		
– in the form of special end-of-year payment	92	98
– in the form of regular (monthly) pay	21	15
Of which		
Special end-of-year payment		
– for all employees	49	10
– for individual groups	30	16
Regular pay		
– for all employees	3	3
– for individual groups	15	1
– no answer.	82	96
Written agreement		
– no answer	18	68
– no	24	14
– yes	59	18
– collective agreement	14	36
– works agreement	76	50
– individual agreement	27	13

Source: WSI Works and Staff Council Survey 2002 (3rd Survey).WSI Hans Böckler
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According to the works councils, performance-related pay is based on written agreements in over half of all cases (52 %).⁷ These agreements are either collective agreements (38 %) and/or works agreements (75 %) or other (generally individual) forms of agreement (12 %). The replies given by the staff councils translate into written provisions in one in four cases (29 % based on collective agreements, just under half on local public sector agreements, and around 20 % on other agreements).

4.2 PROFIT-RELATED PAY

Remuneration components based on operating results are meanwhile fairly widespread in German companies (Table 7). As in the case with performance-related pay systems, there are major differences between the various sectors and company sizes: according to the works councils, profit-related pay components are in place in one in three companies (34 %), while around 60 % of surveyed councils said these components were not used by their company.⁸ An above-average number of companies where profit-related pay components are in place are to be found in the banking/insurance (55 %), capital goods (47 %) and primary materials (41 %) sectors. These remuneration components are less widespread in east Germany than they are in west Germany (29 % versus 35 %). The bigger the company, the more likely it is to operate a remuneration policy that includes result-dependent components. The figure increases from 20 % in companies

with up to 50 employees to 52% in companies with over 1.000 employees.

Companies that operate profit-related pay concepts clearly favour the variabilisation of the profit-dependent special end-of-year payment (92 %), while regular pay is adjusted to reflect results in only 21 % of these companies. The latter practice is particularly widespread in the retail (46 %) and consumer goods (46 %) sectors.

The replies to the question of whether these provisions apply to all employees or only to individual groups also supply some interesting findings. In the case of the special end-of-year payment, the provisions apply to all employees in around half of all cases (49 %) and to individual groups in just under one in three cases (30 %). Due to the high percentage of “No answers”, it is difficult to make any definitive statements on the situation in the companies where remuneration is regularly adjusted to reflect results. Most of the profit-related pay components are based on written agreements (59 %), of which 14 % are in line with collective agreements and 76 % with works agreements. Individual agreements exist in 27 % of cases.

In the public sector, the percentage of companies with profit-related pay policies is extremely low. This kind of variable remuneration element exists only in just over 2 % of public establishments, with above-average scores of between 8 % and 9 % for the social insurance and healthcare sectors as well as public-sector enterprises. Overall, the most common instrument is the variable special end-of-year payment.

4.3 ADDITIONAL PAYMENTS ABOVE COLLECTIVELY AGREED LEVELS

For many years, additional payments above those laid down in collective agreements have been part and parcel of the pay practice at company level and have offered companies a wide range of options for the implementation of a more flexible pay policy relative to the minimum wages and salaries laid down in the collective agreements. The findings of the latest WSI Survey once again confirm the quantitative importance of these additional payment practices. Around two in three works councils say that wages and salaries above the collectively agreed rates are paid in their company; as was to be expected, the percentage figure for east Germany is considerably lower (44 %, compared to 66 % in west Germany). These figures have remained more or less stable during the course of the three surveys. This fact is all the more surprising in view of the negative wage drift that was observed throughout the 1990s and that normally serves as a solid indicator for the reduction of additional pay components.⁹

The sector breakdown shows an above-average frequency of additional payments in the banking/insurance (80 %), consumer goods (77 %), primary materials (76 %) and retail (75 %) sectors, while the lowest percentage is found in the transport/communication sector (41 %). Moreover, the frequency of additional payments above collectively agreed levels also varies slightly with size of company. The figure is around 57 % in companies with up to 200 employees, while voluntary payments are made in around one in three companies above this size.

⁷ There is no written agreement in 20 % of cases. However, the percentage of works councillors who gave no answer is relatively high (28 %).

⁸ In the 2nd WSI Survey in 1999/2000, 44 % of works councils said that there were “performance- or profit-related” pay components in their companies. It is not possible to say with certainty whether this considerably higher score is due to the different emphasis of the question (incl. “performance-related” components).

⁹ See *Bispinck/WSI-Tarifarchiv* (2003b: 79). One possible explanation is that the amount of the payments has been reduced and that fewer employees profit from them. It was not, however, possible to follow up on this idea, as the survey did not contain any questions on the amount and distribution of voluntary benefits relative to the individual components of remuneration.

5

Assessments of the decentralisation of collective bargaining by works and staff councils

The main players in the process of decentralisation of collective bargaining are the parties at company level and therefore in particular the works and staff councils. The question is: how do the latter view their increased range of duties and the greater responsibility they now have for the adaptation of collectively agreed provisions and standards to the specific requirements of their company as a result of the ongoing opening-up of sectoral collective agreements?

In the two previous WSI Surveys in 1997/98 and 1999/2000, the works and staff councils took a sceptical-to-negative view of this development; and the latest WSI Survey 2002 confirms this assessment – that has therefore remained more or less stable over the last six years. Only around 14 % of the works councils welcome this development unreservedly. 38 % see it as ambiguous, and 42% view it as generally problematical (Table 9). The figures are similar for the staff councils, with 15 % welcoming this development and 41 % taking a more sceptical view. However, only just over one in four (27 %) staff councils gives a wholly negative assessment of this trend.

In addition to providing a general assessment, the works and staff councils were asked to give a differentiated opinion based on five pre-set answers (Table 10). The responses further reinforce the sceptical/negative basic attitude of the works councilors: only one in four agree with the main argument of the supporters of decentralisation – namely that it caters more efficiently to the differing conditions and requirements of the specific companies. Even fewer respondents believe that this trend provides the works council with more wide-ranging opportunities for influence and involvement. Not only does the overwhelming majority disagree that the decentralisation of bargaining policy increases the influence of the works council; two in three works councils say that decentralisation makes it easier for the employer to force through his own company-specific interests. As a result, over half of all re-

Table 8: Existence of additional payments above collectively agreed levels – Answers of works and staff councils in % –

	Private sector			Public sector		
	1997/98	1999/2000	2002	1997/98	1999/2000	2002
No	33	34	35	90	90	93
Yes	65	66	63	6	4	6

Source: WSI Works and Staff Council Survey 1997/98, 1999/2000 and 2002 (1st, 2nd and 3rd Survey).

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Table 9: Works and staff councillors' assessments of decentralisation of collective bargaining – Answers of works and staff councillors in % –

The decentralisation of collective bargaining ...	Works councils			Staff councils		
	1997/98	1999/2000	2002	1997/98	1999/2000	2002
... is to be welcomed	12	10	14	12	9	15
... is ambiguous	40	33	38	43	26	41
... is generally problematical	37	39	42	22	24	27
... is hard to assess */	12*	13*	6**	23*	20*	17**
... no answer**						

Source: WSI Works and Staff Council Survey 1997/98, 1999/2000 and 2002 (1st, 2nd and 3rd Survey).

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Table 10: Decentralisation of collective bargaining ... – Answers of works and staff councils in % –

	Works councils		Staff councils	
	1999/2000	2002	1999/2000	2002
... takes better account of the different conditions at establishment level	25	25	22	27
... leads to different work and pay conditions for employees covered by the same collective agreement	54	55	41	50
... increases the influence of the works and staff councils	19	23	14	20
... strengthens the position of the employers to assert their interests	72	67	48	56
... does not give the works and staff councils an effective influence	30	35	24	21
... overtaxes the works and staff councils	No answer	34	No answer	28
... other	6	No answer	4	No answer

Source: WSI Works and Staff Council Survey 1999/2000 and 2002 (2nd and 3rd Survey).

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spondents predict that this trend will generally lead to differences in working and pay conditions. One in three works councils believe that this development overtaxes their abilities. A look at the two previous surveys shows that the substance of the answers given by the works councils has hardly changed over the years. The attitude of the staff councils is equally sceptical. At the same time, however, fears of differing working and income conditions in the sector covered by the relevant collective agreement are not as pronounced, and the percentage of respondents who reject the idea that decentralisation would strengthen the arm of the staff councils is far lower.

6

Need for action in the area of collective bargaining policy

While the majority of works and staff councils take a sceptical view of the trend towards the decentralisation of collective bargaining to the company level, they also see an urgent need for action in many areas of collective bargaining policy (Table 11). Top of the list is the safeguarding of income, which around three in four (74 %) works councils see as the most important area for bargaining policy. This issue is closely followed by the reduction of working time (70 %) – with 55 % attaching greatest importance to reducing overtime, which is way ahead of reduced weekly/annual working time and temporary work release (19 % and 16 %, respectively). The

Table 11: Need for action in the area of collective bargaining policy
– Answers of works and staff councils in % –

Fields of action	Works councils	Staff councils
Safeguarding of income	74	70
Reduction of working time	70	65
– reduction of overtime	55	44
– reduction of weekly working time	19	22
– reduction of annual working time	16	17
– temporary work release	16	11
Company pension provisions	64	52
Partial retirement	61	58
Further training	56	44
Approximation of pay levels in east and west Germany	54	56
Reconciliation of job and family life	53	46
Equal pay framework provisions	51	34
Non-secured employment relationships	47	27
Limiting work pressure	46	24
Company-level healthcare and environmental protection	45	36
Flexibilisation of working time	34	41
Company restructuring	21	14
Performance-related pay	19	31
Hardship clauses	16	5
Introduction of new technology	14	14

Source: WSI Works and Staff Council Survey 2002 (3rd Survey).

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separate topic of partial retirement (61 %) also comes high up on the list, while 34 % mention flexibilisation of working hours.

Since the last survey, the issues that have gained in importance are company pension schemes (64 % versus 33 %), further training (56 % versus 37 %), reconciliation of job and family life (53 % versus 32 %) and adjustment of east German pay scales to the levels in west Germany (54 % versus 31 %). The last-named issue takes top priority for the east German works councils (86 %) – although their west German colleagues also score it at a high 49 %.

Further areas in which the works councils see an urgent need for action are equal pay levels for blue and white collar workers (51 %), limiting work pressure (46 %), and the protection of non-secured employment relationships. Further down the scale come performance-related pay (19 %) and

hardship clauses (16 %).

Although the staff councils attach similar importance to securing income levels and reducing working time, there are sometimes clear differences in other areas: the reduction of overtime received far fewer mentions (44 %), as did company pension schemes (52 %), further training (44 %) and non-secured employment relationships (27 %). On the other side of the coin, the staff councils attach greater importance to performance-related pay (31 %) and working time flexibilisation (41 %). Equal importance is attached to the approximation of east and west German pay levels (56 %).

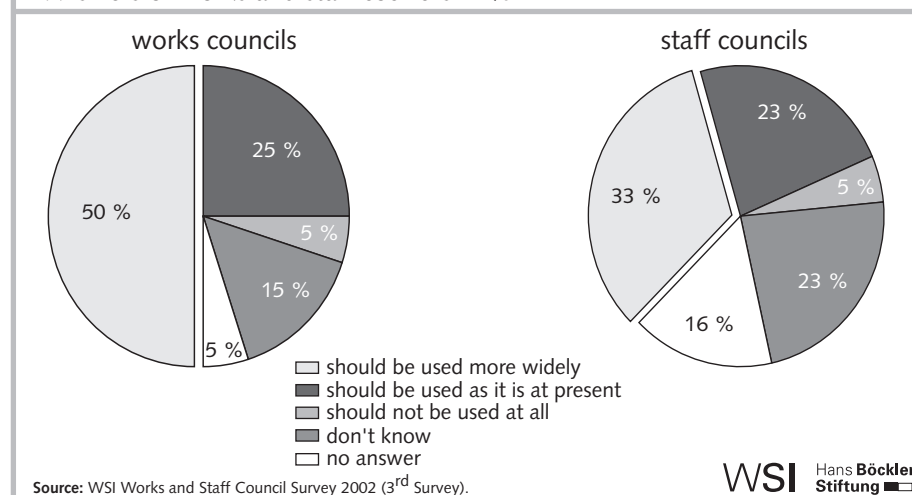
In view of the gradual erosion of collectively agreed standards and the growing need for action at company level, it is worth asking whether works and staff councils are hoping that their efforts will be supported

by the legal underpinning of collectively agreed norms and regulations. Therefore they were asked for their assessment of the instrument of the general declaration of validity (“extension”) of collective agreements for companies not directly covered by such agreements. One in two works councils and one in three staff councils would like to see greater use made of this instrument. One in four would prefer this instrument to be used as it is at present, only one in twenty works and staff councils is opposed to any use of the extension instrument, and 12 % and 23 %, respectively, are undecided (Figure 3).

The works and staff councils in east Germany are more frequently in favour of more widespread use of this instrument than their colleagues in west Germany. A breakdown of the figures by sector show that transport/communications (68 %), construction (64 %) and retailing (62 %) record well above-average scores for greater utilisation preference. Among the staff councils, the supporters of “extension” are mainly to be found in the fields of healthcare, social insurance and “other education/training” (without schools).

It is surprising to note that the positive scores for a statutory minimum wage are even more marked than the corresponding scores for the “extension” instrument (Figure 4). Four in five works councils (82 %) and three in four staff councils describe the introduction of a statutory minimum wage as a flanking measure for bargaining policy as “a good idea”. Fewer than 10 % do not think this is a good idea, and 7 % of works councils (and 8 % of staff councils) are undecided (“Don’t know”). Here as well, there are interesting differences between the various sectors. The positive assessments of the works councils are found above all in the construction sector (88 %), consumer goods (86 %) and capital goods (85 %). In the case of the staff councils, support is particularly strong in the areas of social insurance (92 %) and public-sector business enterprises (91 %).

Fig. 3: Assessment of the instrument of extension of collective agreements
– Answers of works and staff councils in % –



7 Conclusion

The German system of collective bargaining has always been characterised by the highly differentiated combination of sectoral-level and company-level regulations.

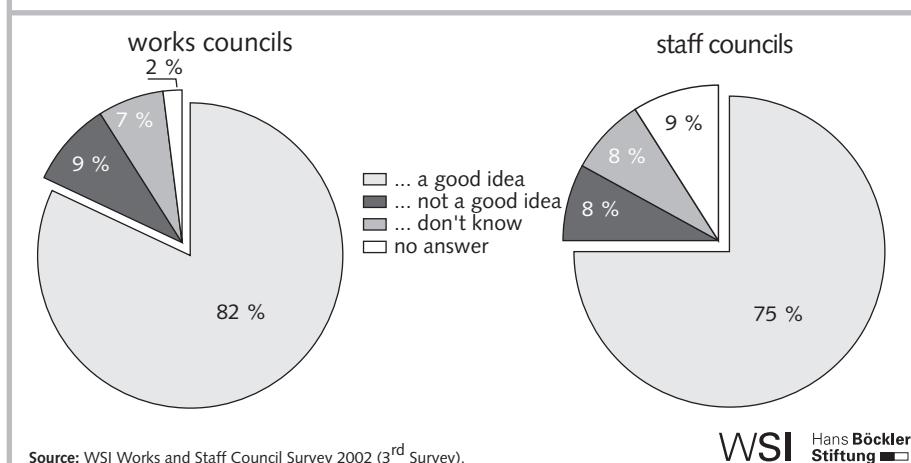
Sectoral collective agreements and in particular sectoral framework agreements are always subject to implementation and adaptation at company level. The findings of the WSI Works and Staff Council Survey once again underline the active role of the social actors at company-level in the practical shaping of collectively agreed regulations. Seen from this perspective, the widespread picture of the “rigid German collective bargaining system” has always been something of a distortion of what happens in practice.

At the same time, however, there have been numerous changes in the area of collective bargaining since the beginning of the 1990s that have been geared towards the increasing decentralisation of bargaining policy to company level. Since this time, the trend towards an external and internal erosion of the German system of sectoral collective bargaining has been unmistakable; the grey areas without collective agreements are expanding, and the influence of collectively agreed norms and provisions is receding. Although German trade unions and employers’ associations were partially able to influence and control this development via the introduction of opening-clauses etc. into sectoral agreements, it still remains an open question whether the strategy of “controlled decentralisation” is in the end sufficient to stabilise the basic features of German collective bargaining.

While the German bargaining system (still) appears to have a relatively stable

Fig. 4: Statutory minimum wage as a flanking measure to support collective bargaining is ...

- Answers of works and staff councils in % -



core, it is uncertain whether this will continue to be the case in the future. The traditional “dual system” of German industrial relations, whereby trade unions and employers’ associations regulate the main distributional conflict at sectoral level and thereby take the burden of this conflict off the management and works or staff council, might be called into question if the ongoing decentralisation of collective bargaining continues to undermine the traditional function of sectoral collective agreements as an instrument that takes wages and working conditions “out of competition”.

For a number of years now, the findings of the WSI Survey have shown that the

overwhelming majority of works and staff councils take a sceptical and often unfavourable view of this trend and that they are cautious when it comes to assessing their own powers of influence vis-à-vis their negotiating partners at company level. This is certainly one of the reasons why the works and staff councils see an urgent need for action to reinforce collectively negotiated provisions in a number of areas. Consequently, they believe that future reforms and the future development of German collective bargaining should not be a one-way street towards decentralisation.

- Artus, I.** (2001): Krise des Deutschen Tarifsystems. Die Erosion des Flächentarifvertrages in Ost und West, Wiesbaden
- Artus, I./Schmidt, R./Sterkel, G.** (2000): Brüchige Tarifrealität. Der schleichende Bedeutungsverlust tariflicher Normen in der ostdeutschen Industrie, Berlin
- Bahn Müller, R.** (2001): Stabilität und Wandel der Entlohnungsformen, München und Mering
- Bahn Müller, R.** (2002): Diesseits und jenseits des Flächentarifvertrages. Entgeltfindung und Entgeltstrukturen in tarifgebundenen und nicht tarifgebundenen Unternehmen, in: Industrielle Beziehungen 4, pp. 402–424
- Bahn Müller, R./Bispinck, R.** (1995): Vom Vorzeige- zum Auslaufmodell – Das deutsche Tarifsysteem zwischen kollektiver Regulierung, betrieblicher Flexibilisierung und individuellen Interessen, in: Bispinck, R. (ed), Tarifpolitik der Zukunft – Was wird aus dem Flächentarifvertrag? Hamburg, pp. 137–172
- Bahn Müller, R./Bispinck, R./Weiler, A.** (1999): Tarifpolitik und Lohnbildung in Deutschland am Beispiel ausgewählter Wirtschaftszweige, WSI Discussion Paper 79, Düsseldorf, December
- Behrens, M./Traxler, F.** (2002): Collective Bargaining Coverage and Extension Procedures, in: EIROnline [www.eiro.eurofound.ie/2002/12/study/TN0212102S.html]
- Bergmann, J./Bürckmann, E./Dabrowski, H.** (1998): Reform des Flächentarifvertrages? in: Supplement der Zeitschrift Sozialismus 1
- Bispinck, R.** (2000): Tarifentgelt nach Leistung und Erfolg. Regelungen in ausgewählten Tarifbereichen, in: WSI (ed), WSI-Tarifhandbuch 2000, Frankfurt/Main
- Bispinck, R.** (2001): Betriebliche Interessenvertretung, Entgelt und Tarifpolitik, in: WSI-Mitteilungen 2, pp. 124–132
- Bispinck, R./Schulten, T.** (1999): Flächentarifvertrag und betriebliche Interessenvertretung, in: Müller-Jentsch, W. (ed), Konfliktpartnerschaft, München und Mering, pp. 185–212
- Bispinck, R./Schulten, T.** (2002): Germany: Problems of a Competition-oriented Collective Bargaining Policy, in: Pochet, P. (ed), Wage Policy in the Eurozone, Brussels, pp. 239–254
- Bispinck, R./WSI-Tarifarchiv** (2002): Tarifpolitischer Halbjahresbericht – Eine Zwischenbilanz der Lohn- und Gehaltsrunde 2002, in: WSI-Mitteilungen 7, pp. 371–382
- Bispinck, R./WSI-Tarifarchiv** (2003a): Tarifliche Öffnungsklauseln. Eine Analyse von Tarifbereichen, „Elemente qualitativer Tarifpolitik“ 52 des WSI-Tarifarchivs, Düsseldorf
- Bispinck, R./WSI-Tarifarchiv** (2003b): Tarifpolitischer Jahresbericht 2002: Harte Verteilungskonflikte, in: WSI-Mitteilungen 2, pp. 75–85
- Klein-Schneider, H.** (1999): Betriebs- und Dienstvereinbarungen: Leistungs- und erfolgsorientiertes Entgelt. Analyse und Handlungsempfehlungen, Edition der Hans Böckler Stiftung 14, Düsseldorf
- Kohaut, S./Schnabel, C.** (2001): Tarifverträge nein danke !? – Einflussfaktoren der Tarifbindung west- und ostdeutscher Betriebe, Diskussionspapier 8 des Lehrstuhls für VWL der Friedrich-Alexander-Universität Nürnberg-Erlangen, December 2001
- König, O./Stamm, S./Wendl, M.** (eds) (1998): Erosion oder Erneuerung? Krise und Reform des Flächentarifvertrages, Hamburg
- Mauer, A./Seifert, H.** (2001): Betriebliche Beschäftigungs- und Wettbewerbsbündnisse – Strategie für Krisenbetriebe oder neue regelungspolitische Normalität, in: WSI-Mitteilungen 8, pp. 490–500
- Oppolzer, A./Zachert, U.** (eds) (2000): Krise und Zukunft des Flächentarifvertrages, Baden-Baden
- Pfarr, H.** (2003): (Über-)Regulierung von Arbeitsmarkt und Arbeitsverhältnissen? Kritik und Perspektiven, in: WSI-Mitteilungen 5, pp. 313–317
- Schulten, T.** (1999): Court Acknowledges Unions' Right to bring Cases against Companies accused of contravening Collective Agreements, in: EIROnline [www.eiro.eurofound.ie/1999/08/Feature/DE9908214F.html]
- Seifert, H.** (ed.) (2002): Betriebliche Bündnisse für Arbeit. Rahmenbedingungen – Praxiserfahrungen – Zukunftsperspektiven, Berlin