

German pacts for employment and competitiveness Concessionary bargaining as a reaction to globalisation and European integration?¹

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Summary

This contribution deals with company-level pacts for employment and competitiveness (PECs) under the German collective bargaining system. Due to the introduction of collectively agreed opening clauses and the associated decentralisation of the collective bargaining system, the social partners at the company level now have greater opportunities to negotiate company-specific adjustments in the areas of compensation and working conditions. Currently, in return for – generally fixed-term – employer guarantees concerning location and job preservation, PECs have been negotiated in about one in four companies with a works council. The new ‘pacts’ increase internal flexibility in the firm by extending the leeway for a flexible adjustment of working time, work organisation and remuneration. A survey of works councils, conducted by the WSI, provides understanding of the economic and institutional factors which influence the spread and composition of these concessionary agreements. Alongside a commitment to social partnership on the management side, the presence of a sectoral collective agreement is an important prerequisite for ensuring, first of all, that the employer agrees to employment guarantees in exchange for the employee concessions and, secondly, that these management pledges are actually observed in practice.



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Sommaire

Cette contribution traite des pactes pour l'emploi et la compétitivité (PEC) au niveau de l'entreprise sous le système allemand de négociation collective. Suite à l'introduction des clauses d'ouverture négociées et de la décentralisation associée du système de négociation collective, les partenaires sociaux au niveau de l'entreprise ont maintenant de plus grandes opportunités de négocier des ajustements spécifiques aux entreprises en ce qui concerne la compensation salariale et les conditions de travail. Actuellement, en échange – généralement à durée déterminée – de garanties de la part de l'employeur relatives au maintien de l'emploi et du lieu de travail, les PEC ont été négociés dans environ une entreprise sur quatre avec un comité d'entreprise. Les nouveaux « pactes » augmentent la flexibilité interne dans l'entreprise en étendant la marge de manoeuvre en vue d'un ajustement flexible du temps de travail, de l'organisation du travail et de la rémunération. Une étude sur les comités d'entreprise, menée par le WSI, permet de comprendre les facteurs économiques et institutionnels qui influencent la diffusion et la composition de ces accords de concession. Outre un engagement par rapport au partenariat social du côté du management, la présence d'une convention collective sectorielle est une condition préalable importante pour s'assurer, tout d'abord, que l'employeur est d'accord sur des garanties d'emploi en échange de concessions de la part des travailleurs et, ensuite, que ces engagements du management sont réellement observés dans la pratique.

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Zusammenfassung

Der Beitrag beschäftigt sich mit betrieblichen Vereinbarungen für Beschäftigung und Wettbewerbsfähigkeit im deutschen Tarifvertragssystem. Mit der Einführung tarifvertraglicher Öffnungsklauseln und der damit verbundenen Dezentralisierung des Tarifvertragssystems haben die Betriebsparteien erweiterte Möglichkeit erhalten, betriebsspezifische Anpassungen der tariflichen Arbeits- und Entgeltstandards vorzunehmen. Im Tausch gegen zumeist befristete Standort- und Beschäftigungszusagen werden derzeit in knapp einem Viertel der mitbestimmten Betriebe in Deutschland Vereinbarungen angewandt. Sie erhöhen die interne Flexibilität in den Betrieben, indem sie den Spielraum für eine flexible Anpassung von Arbeitszeit, Arbeitsorganisation und Entlohnung erweitern. Auf der Basis einer aktuellen WSI Betriebsrätebefragung kann gezeigt werden, welche ökonomischen und institutionellen Faktoren die Verbreitung und Ausgestaltung betrieblicher Beschäftigungsvereinbarungen beeinflussen. Neben einer sozialpartnerschaftlichen Orientierung des Managements ist insbesondere der Flächentarifvertrag Voraussetzung dafür, dass erstens auch der Arbeitgeber Leistungen in das Bündnis mit einbringt und diese zweitens auch eingehalten werden.



Introduction

Collective bargaining systems in industrialised countries throughout the world are under severe pressures. With increasing levels of regional economic integration in North America as well as in Europe, the partial integration of newly transformed eastern European countries into the global supply chain, and substantially reduced transportation and communication costs, internationally diversified production strategies have become a real prospect not just for large corporations that have already acted as ‘global players’ in the past, but even for medium-sized companies that used to place great emphasis on fostering strong and long-lasting labour-management relations at their home country production base (Schröder and Weinert 2003; Bosch 2000). Chief among the reasons cited for international plant relocations in manufacturing are labour costs that reportedly are too high and restrictive employment regulations that, according to business representatives, made production almost cost prohibitive (DIHK 2003: 8).

It is arguably not the number of jobs *actually relocated* that is threatening the very fundamentals of national industrial relations systems in industrialised countries but rather the *potential threat* of plant relocation that is changing the balance of bargaining power in labour negotiations, in favour of the employers (Bacharach and Lawler 1981; Flecker and Schulten 1999: 107). Even in Germany, which has been characterised as a quasi-prototype for a ‘co-ordinated market economy’ (Hall and Soskice 2001), trends towards internationalised production strategies have been accompanied by a seminal shift in the actual level of collective bargaining from the national, or industry, level to the company level. These processes of “organised’ as well as ‘unorganised’ decentralisation’ (Traxler 1995) have given rise to employer demands for reopening existing industry-level labour

agreements, whereby the company's future production and investment decisions are made subject to workers' acceptance of reduced labour costs. In order to extract the maximum possible concessions, companies frequently are able to employ 'whipsawing' tactics during strategic company-level negotiations by playing one production site off against another, both at home and abroad (Mahnkopf and Altwater 1995; Peters 2001; Sisson *et al.* 2002).

It is this indirect effect of intensified international restructuring which is the focus of the present paper. The second part of the paper briefly discusses the institutional prerequisites for concessionary company-level agreements, most notably the seminal trend towards enhanced flexibility in sectoral labour agreements, while the third part offers empirical evidence on the current extent of concessionary bargaining. Recent data collected from a written survey of 2 477 works councils are presented which show that so-called company-level pacts for employment have now been concluded at about one in four companies that have a works council. So, even in the relatively privileged (but shrinking) segment of the German economy where workforces are represented by works councils and co-determination rights are exercised to mitigate the effect of intensified international competition, the ongoing procedural changes in the German collective bargaining system have already had significant effects. By way of multivariate analyses, the causal determinants for explaining the prevalence, form and exchange relationship between 'give and take' in these agreements are identified. The paper concludes with a summary and a preliminary look at the long-term effects of company-level concessionary bargaining with respect to the German system of industrial relations as a whole.

Company-level concessionary bargaining in Germany

Institutional prerequisites

Company-level pacts for employment and competitiveness have by now become an integral part of the German dual system of industrial relations (see Rehder 2003; Seifert 2002)². While the core labour standards are still predominantly negotiated at industry level, company-level flexibility in the areas of pay and working time is achieved in subsequent bargaining rounds between management and works councils. Traditionally, sector-specific labour agreements were regarded as specifying the industry's minimum compensation standards (Kädtler 2003). On top of the collectively defined base wage, strong works councils were regularly able to achieve company-specific bonuses in line with the employer's overall ability to pay. This system of dual bargaining gave rise to a positive wage drift and quite sizeable differences between effective and contractually fixed wages (Kohaut and Schnabel 2003). In fact, the principle of 'favourability' established in German labour law generally only allows positive deviations from collective agreements. Plant-specific changes concerning those parameters that are usually set by collective labour agreements are prohibited unless these alterations are unambiguously in favour of the affected workforce or unless changes are explicitly allowed by an

2 So-called 'pacts for employment and competitiveness' can also be found in various other European countries. See Freyssinet and Seifert (2001) and Sisson and Artiles (2000) for comprehensive analysis.

opening clause in the respective agreement (Waltermann 1996, cf. Art. 77 Sec. III Works Constitution Act and Art. 4 Sec. III Collective Agreement Act).

During the process of German unification and the subsequent recession in 1992 and 1993, economic and political pressures mounted that required the social partners to introduce 'hardship' or general opening clauses into sectoral agreements. These options for flexible adjustment at the plant level typically allow companies to reduce or extend working hours, delay wage increases, or even cut contractual base wages for certain groups of workers in order to return to profitability and retain or even expand employment (Bispinck 1998). Since then a wide range of opening clauses have been negotiated in nearly every major labour agreement in Germany (Bispinck and WSI-Tarifarchiv 2004).

The overall template for most of the company-level agreements that were subsequently negotiated is the 1993 Volkswagen company-level agreement. For the very first time in German post-war history, a trade union and a major employer agreed to a significant working time reduction of 20% without equivalent monetary compensation (Seifert and Trinczek 2000; Rosdücher 1997). While strategic renegotiation of wages and working time is typically restricted by sectoral collective agreements, Volkswagen benefited from the fact that the company does not belong to the sectoral employers' association, is therefore not bound by the sectoral agreement and has more leeway to negotiate specifically tailored provisions directly with the appropriate union, IG Metall.

Actors' preference structures and interests

For the most part, both parties (the employer as well as the workforce represented by the works council and/or the union) benefit to varying degrees from plant-level pacts for employment (Rosdücher 1997: 46-59). Employers are usually able to cut direct labour costs or increase labour productivity by adopting more flexible work rules or working time patterns that are in line with the volatile demand situation. In addition, by lowering unit labour costs employers can keep an experienced workforce and well-rehearsed work teams, even during times of slack demand or reduced profits. Plant-specific human and social capital can be retained while search and training costs in future periods of increasing demand are reduced (Cascio 2002).

On the other hand, workers themselves might welcome concessionary pacts for employment as they benefit from explicit employment guarantees that increase the level of perceived job security in the face of high levels of mass unemployment and few alternative job opportunities. Workers with few marketable qualifications and older employees with poor labour market prospects, but also those with little job security provided by seniority based lay-off systems, should be especially interested in achieving explicit 'no lay-off' guarantees even at the expense of making significant monetary concessions.

Mutual gains and partly overlapping interest structures might thus explain the recent increase in the prevalence of company-level concessionary pacts for employment in Germany. Company-level agreements usually codify an explicit trade-off between increases in internal flexibility (in terms of financial, numerical, organisational flexibility)

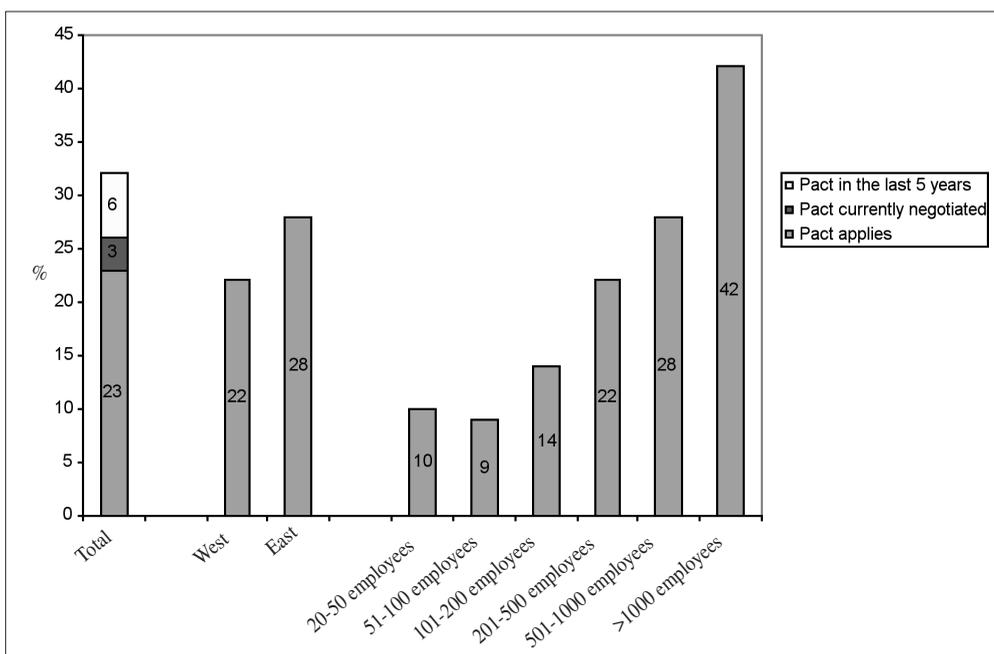
in exchange for reduced external numerical flexibility, i.e. increased employment stability (Ozaki 1999). The next section provides empirical information on the quantitative significance of this trend.

Empirical analysis

Distribution, duration and reasons for pacts

According to a recent WSI survey of works councils carried out in August and September 2003³, a company-level concessionary pact is currently in place at about 23% of German establishments with a works council and 20 or more employees. An additional 3% of the companies are in the midst of negotiating such an agreement while roughly 6% had had one in the past five years but terminated it in the meantime (see Figure 1). Figure 1 indicates a positive-linear relationship with respect to company size: while only 14% of small companies with up to 50 employees have experienced or are considering such a flexibility agreement, 56% of the largest companies have done so. So, in terms of the employees in our sample, nearly every second worker (49%) is employed by a company with a works council that currently has a company-level pact for employment.

Figure 1: Concessionary pacts in the German economy (in % of all companies)



Source: 2003 WSI Works Council Survey.

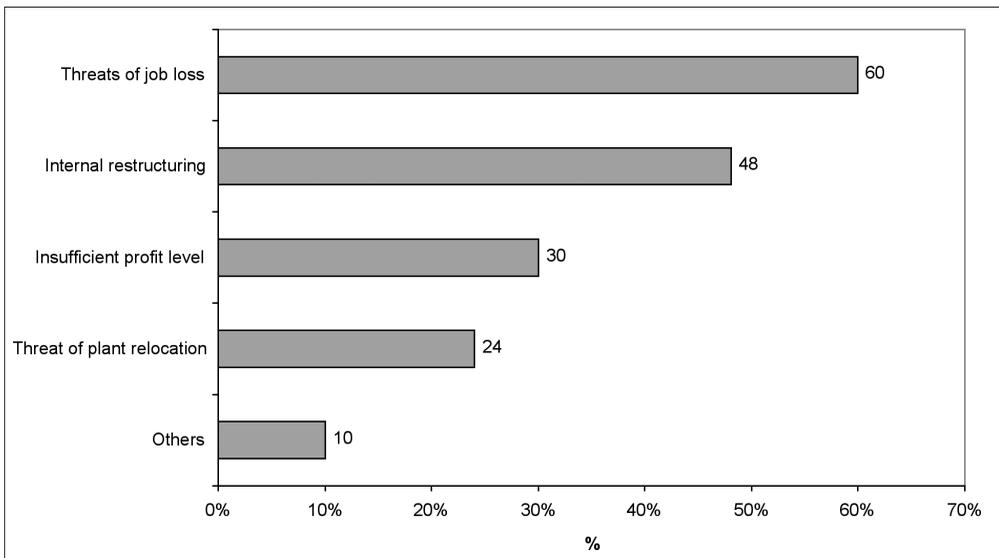
3 For a more detailed analysis of the results, see Massa-Wirth and Seifert (2004). The analysis is based on a total of 2 477 returned questionnaires. The data set has been weighed using IAB data with respect to firm size, industry, and regional distribution so as to allow representative conclusions for the German economy as a whole.

The significantly greater prevalence of pacts for employment at large companies may conceal the fact that informal arrangements between management and single groups of workers at small establishments can substitute and serve as functional equivalents for formally negotiated concessionary pacts. From case studies on workplace industrial relations and co-determination it is well documented that paternalistic and individualistic employee relations that rely heavily on informal and unilateral processes of decision-making are especially dominant at small and employer-owned establishments (Kotthoff 1994). In their study on concessionary pacts in the metals and electronics industry, Berthold *et al.* extend the definition of pacts for employment to include also modifications of existing individual employment contracts (Berthold *et al.* 2003). As a result, their estimate on the distribution of concessionary pacts is significantly higher (40%), although it appears that most of this difference arises from the fact that they based their analysis on just a single industry.

Data on the duration indicate that the majority of pacts should be interpreted as long-lasting deviations from industry-level standards rather than short-term adjustment instruments during cyclical slumps. The duration of the vast majority of pacts ranges from two to five years with the median agreement lasting 25 months. As more than 80% have a duration of more than one year, they typically last considerably longer than the standard industry-level labour agreement which is normally renewed on a yearly basis.

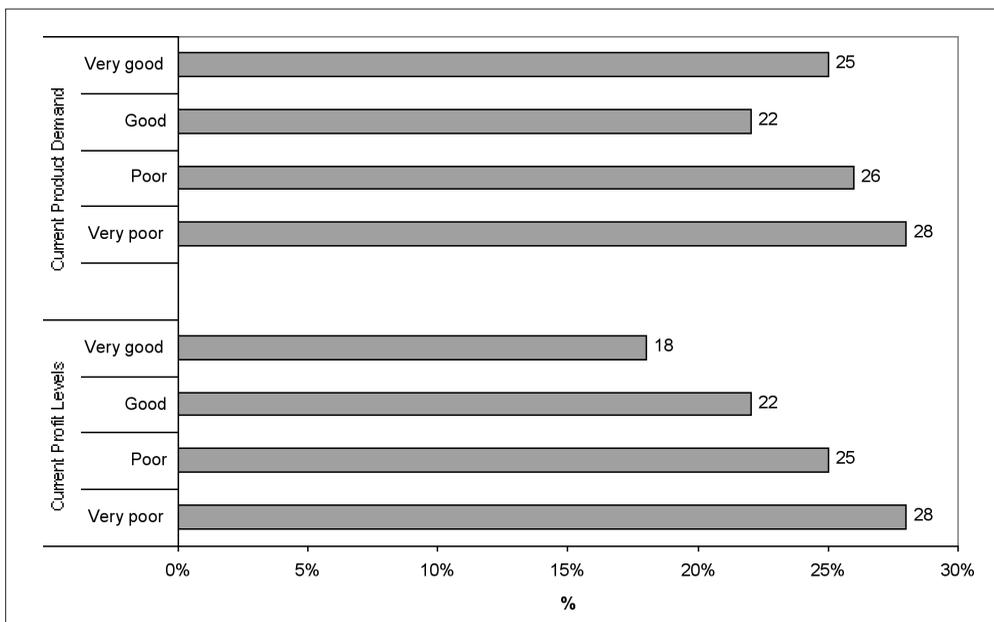
Those asked about the main reasons for agreeing to a concessionary pact in the first place frequently mention the immediate threat of job loss or plant relocation, which points to the defensive nature of most of these plant-level pacts and the enormous pres-

Figure 2: Primary reasons for concessionary pacts (in % of companies with a pact; multiple answers allowed)



Source: 2003 WSI Works Council Survey.

Figure 3: Distribution of concessionary pacts by company-specific economic indicators



Source: 2003 WSI Works Council Survey.

asures works councils are exposed to by management (see Figure 2, above). Surprisingly though, the actual economic situation the company currently faces is not a very strong predictor for the existence of a concessionary pact. While, for example, 28% of those companies that currently experience very poor product demand have agreed to a concessionary pact, 25% of those facing a very good product demand situation have also done so (see Figure 3). Obviously, and contrary to the social partners’ expectations when they negotiated opening clauses in the first place, deviations from industry-wide labour agreements cannot be limited to establishments experiencing a firm-specific economic crisis. Because of information asymmetries existing between management and workers’ representatives, the threat of plant relocation as a tactical tool for management to increase its bargaining power is universally applicable (Peters 2001).

The economic and structural determinants that increase the likelihood of a pact for employment are presented in Table 1 (below)⁴. The signs of the significant causal factors indicate that concessionary agreements are especially prevalent at medium-sized or large establishments with a high fraction of male workers that are located in eastern Germany and covered by an industry- or company-level labour agreement. Obviously, and contrary to the expectations of neoliberal and supply-side economics, industry-wide labour contracts are not as rigid as is commonly assumed and still allow for flexible adjustments at the company level⁵. This gives rise to new multi-level flexibility

4 Odd ratios below 1 indicate a negative effect while odd ratios above 1 indicate a positive effect on the dependent variable.

Table 1: Binary logistic regression: economic and structural effects on the prevalence of concessionary pacts?

| Dependent variable | Concessionary pact for employment concluded | |
|--|---|-------|
| | Odd ratios | Sig. |
| Only minor management interference in co-determination | 1,988*** | 0,000 |
| Good/Very good product demand | 0,849 | 0,273 |
| Good/Very good profit situation | 0,710** | 0,020 |
| Percentage of male workers | 1,020*** | 0,000 |
| No collective contract (Reference) | | 0,000 |
| Industry-wide contract | 2,232*** | 0,000 |
| Firm-level contract | 4,366*** | 0,000 |
| Eastern Germany | 1,963*** | 0,000 |
| Manufacturing (Reference) | | 0,026 |
| Construction | 0,894 | 0,752 |
| Trade | 0,648 | 0,112 |
| Traffic and communications | 1,153 | 0,516 |
| Banking and insurance | 1,781** | 0,017 |
| Corporate services | 1,775* | 0,050 |
| Other services | 0,996 | 0,983 |
| Other sectors | 0,608 | 0,390 |
| 20-50 employees (Reference) | | 0,000 |
| 51-100 employees | 1,031 | 0,930 |
| 101-200 employees | 1,405 | 0,285 |
| 201-500 employees | 2,561*** | 0,002 |
| 501-1000 employees | 3,772*** | 0,000 |
| > 1000 employees | 5,715*** | 0,000 |
| Constant | 0,009 | 0,000 |
| N | 1965 | |
| Modell Sig. | 0,000 | |
| Nagelkerkes R2 | 0,237 | |

* = Significant at 10% level. ** = Significant at 5% level. *** = Significant at 1% level.

Source: 2003 WSI Works Council Survey.

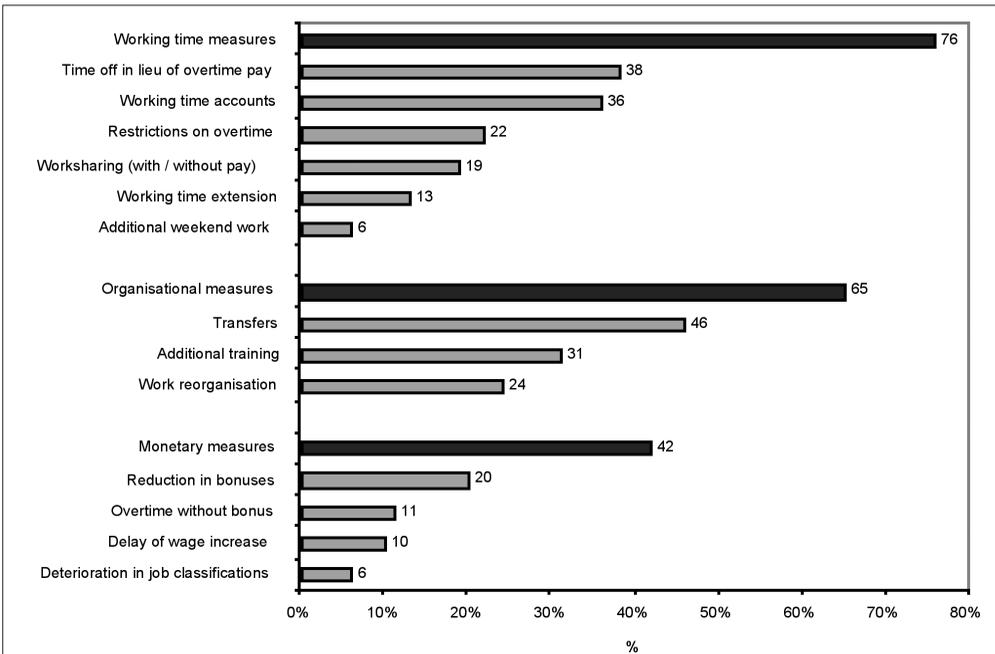
arrangements where union-negotiated wage contracts are modified according to plant-specific requirements and power relations. In addition, concessionary pacts are significantly more often found at companies making insufficient profits but with consensual labour-management relations (in terms of only minor management interference in co-determination rights). Therefore, it seems that a climate of mutual acceptance and trust between the social partners at plant level is clearly conducive to reaching agreements on complex and potentially far-reaching PECs (Bosch 1997; Weitbrecht 2003).

5 For critics of industry-wide labour contracts see for example Siebert (1997) and Berthold and Stettes (2001).

Table 2: Binary logistic regression: economic and structural effects on the use of concessionary measures

| Dependent variable | Working time reduction ¹ | | | | Working time extension ² | | | |
|---------------------------------|-------------------------------------|-------|------------|-------|-------------------------------------|-------|------------|-------|
| | Product demand | | Profits | | Product demand | | Profits | |
| | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. |
| Good/Very good (demand/profits) | 0,228*** | 0,000 | 0,426*** | 0,000 | 4,070*** | 0,000 | 1,116 | 0,689 |
| 20-100 employees (Reference) | | 0,351 | | 0,162 | | 0,082 | | 0,072 |
| 101-250 employees | 0,529 | 0,148 | 0,444* | 0,057 | 0,752 | 0,586 | 0,988 | 0,982 |
| 251-500 employees | 0,525 | 0,126 | 0,454** | 0,049 | 0,836 | 0,721 | 1,137 | 0,788 |
| 501-1000 employees | 0,599 | 0,216 | 0,410** | 0,028 | 0,610 | 0,318 | 0,976 | 0,959 |
| > 1000 employees | 0,460** | 0,041 | 0,417** | 0,017 | 0,359** | 0,030 | 0,439* | 0,077 |
| No contract | 0,719 | 0,435 | 0,738 | 0,459 | 1,090 | 0,854 | 1,119 | 0,803 |
| Opening clause applies | 1,380 | 0,240 | 1,140 | 0,622 | 1,261 | 0,438 | 1,360 | 0,312 |
| Service sector | 1,686* | 0,060 | 1,191 | 0,513 | 0,563* | 0,057 | 0,765 | 0,382 |
| Eastern Germany | 2,702*** | 0,000 | 2,104*** | 0,007 | 0,478* | 0,075 | 0,572 | 0,166 |
| Constant | 0,176 | 0,005 | 0,318 | 0,057 | 0,655 | 0,584 | 0,542 | 0,410 |
| N | 443 | | 437 | | 443 | | 437 | |
| Modell Sig. | 0,000 | | 0,000 | | 0,000 | | 0,108 | |
| Nagelkerkes R2 | 0,185 | | 0,096 | | 0,124 | | 0,052 | |

Figure 4: Employee concessions negotiated in concessionary pacts for employment (in % of companies with a pact; multiple answers allowed)



Source: 2003 WSI Works Council Survey.

Table 2 (continued): Binary logistic regression: economic and structural effects on the use of concessionary measures

| Dependent variable | Monetary concessions ³ | | | | Additional training | | | |
|---------------------------------|-----------------------------------|-------|------------|-------|---------------------|-------|------------|-------|
| | Product demand | | Profits | | Product demand | | Profits | |
| | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. |
| Good/Very good (demand/profits) | 0,886 | 0,537 | 0,498*** | 0,001 | 1,688** | 0,016 | 1,774*** | 0,007 |
| 20-100 employees (Reference) | | 0,024 | | 0,028 | | 0,002 | | 0,005 |
| 101-250 employees | 0,825 | 0,638 | 1,005 | 0,991 | 1,372 | 0,487 | 1,577 | 0,317 |
| 251-500 employees | 0,528 | 0,101 | 0,531 | 0,103 | 0,844 | 0,708 | 0,888 | 0,792 |
| 501-1000 employees | 0,518* | 0,083 | 0,514* | 0,082 | 0,853 | 0,716 | 0,844 | 0,701 |
| > 1000 employees | 0,385*** | 0,007 | 0,430** | 0,017 | 2,202** | 0,044 | 2,108* | 0,057 |
| No contract | 1,544 | 0,230 | 1,605 | 0,196 | 0,804 | 0,605 | 0,761 | 0,517 |
| Opening clause applies | 1,103 | 0,675 | 1,123 | 0,626 | NA | NA | NA | NA |
| Service sector | 1,005 | 0,983 | 1,242 | 0,365 | 1,111 | 0,615 | 1,199 | 0,390 |
| Eastern Germany | 0,933 | 0,789 | 0,945 | 0,831 | 0,349*** | 0,002 | 0,359*** | 0,003 |
| Constant | 1,711 | 0,363 | 1,387 | 0,583 | 0,761 | 0,626 | 0,682 | 0,494 |
| N | 443 | | 437 | | 443 | | 437 | |
| Modell Sig. | 0,049 | | 0,000 | | 0,000 | | 0,000 | |
| Nagelkerkes R2 | 0,046 | | 0,091 | | 0,120 | | 0,124 | |

* = Significant at 10% level. ** = Significant at 5% level. *** = Significant at 1% level.

1 = Short time work and/or working time reduction with/without compensation.

2 = Extension of regular working hours and/or additional weekend work. NA = Not applicable.

3 = Reduced bonuses and/or overtime work without overtime premium and/or reduction of scheduled wage increases and/or changes in job classification and/or reduced trainee compensation.

Source: 2003 WSI Works Council Survey.

Exchange relationship: fair deal or rip-off?

The substance of the PECs agreed upon by the social partners show that both parties might benefit to varying degrees from usually complex bargaining packages. Working time related instruments, such as restrictions on the use of overtime but also working time reductions as well as extensions, are negotiated in three quarters of concessionary pacts while immediate monetary cutbacks are to be found in just some 42% of the surveyed pacts (Figure 4). Moreover, concessionary instruments are often accompanied by reorganisation strategies necessary for their effective implementation. Nevertheless, compared to a similar works council survey conducted by the WSI about four years ago, the relative importance of concessionary instruments has shifted from numerical to monetary measures (Seifert 2002). Furthermore, most of the working time concessions, such as the use of working time accounts, as well as the extension of regular working hours, also have, at least, an indirect monetary consequence on employees' income as, for example, when the company gains temporal flexibility without having to pay overtime bonuses for extra hours.

Table 2 (continued): Binary logistic regression: economic and structural effects on the use of concessionary measures

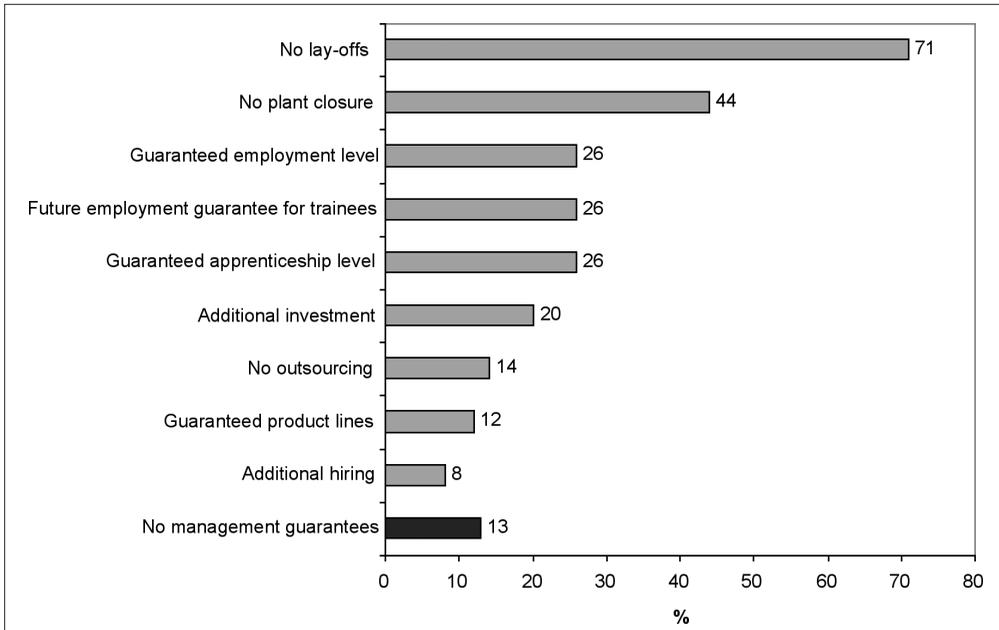
| Dependent variable | Early retirement incentives | | | | Additional part-time work | | | |
|---------------------------------|-----------------------------|-------|------------|-------|---------------------------|-------|------------|-------|
| | Product demand | | Profits | | Product demand | | Profits | |
| | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. | Odd ratios | Sig. |
| Good/Very good (demand/profits) | 1,091 | 0,668 | 1,050 | 0,816 | 1,204 | 0,548 | 0,929 | 0,795 |
| 20-100 employees (Reference) | | 0,000 | | 0,000 | | 0,001 | | 0,000 |
| 101-250 employees | 1,882 | 0,139 | 2,075* | 0,087 | 6,789** | 0,025 | 6,437** | 0,028 |
| 251-500 employees | 1,796 | 0,155 | 1,894 | 0,116 | 1,124 | 0,899 | 1,503 | 0,645 |
| 501-1000 employees | 1,948* | 0,097 | 1,743 | 0,167 | 1,070 | 0,101 | 4,358* | 0,081 |
| > 1000 employees | 5,909*** | 0,000 | 6,198*** | 0,000 | 8,289** | 0,010 | 9,808*** | 0,005 |
| No contract | 0,586 | 0,165 | 0,545 | 0,113 | 1,901 | 0,210 | 1,407 | 0,499 |
| Service sector | 0,918 | 0,670 | 0,967 | 0,868 | 7,529*** | 0,000 | 8,282*** | 0,000 |
| Eastern Germany | 0,867 | 0,594 | 0,878 | 0,628 | 2,676*** | 0,003 | 2,153** | 0,021 |
| Constant | 0,518 | 0,193 | 0,480 | 0,145 | 0,000 | 0,000 | 0,001 | 0,000 |
| N | 443 | 437 | 443 | 437 | | | | |
| Modell Sig. | 0,000 | 0,000 | 0,000 | 0,000 | | | | |
| Nagelkerkes R2 | 0,140 | 0,150 | 0,287 | 0,289 | | | | |

* = Significant at 10% level. ** = Significant at 5% level. *** = Significant at 1% level.
 Source: 2003 WSI Works Council Survey.

The economic indicators ‘product demand’ and ‘profit level’ appear to be powerful explanatory factors with respect to the specific instruments that are adopted. As could be expected, multivariate analyses show that measures allowing an increase in the available work volume are predominantly negotiated at establishments facing a positive demand while reductions in working time are significantly more often negotiated at companies experiencing poor product demand. Similarly, monetary concessions such as reductions in bonuses, wage freezes, or reduced overtime premiums are significantly more often implemented at companies that are in dire financial distress. Most of the multivariate estimates based on the 1999/2000 Works Council Survey that are reported by Mauer and Seifert are again confirmed by the most recent survey (see Table 2), providing further evidence that the previous results were not merely artefacts influenced by the then favourable general business cycle (Mauer and Seifert 2001).

In the majority of cases works councils were able to negotiate give-and-take improvements in the area of employment security (see Figure 5). The most widespread management guarantees are temporary no lay-off clauses (71% of cases), typically for the duration of the negotiated agreement. Here management promises to abstain from its unilateral right to terminate employment except for cases of personal misconduct. Less common are indirect measures for employment security, e.g. additional investment (20%), no-outsourcing guarantees (14%) or even the promise to undertake additional hiring (8%).

Figure 5: Management guarantees negotiated in concessionary pacts (in % of companies with a pact; multiple answers allowed)



Source: 2003 WSI Works Council Survey.

Although most works councils could trade employment security in exchange for concessions, a still significant number of pacts abandoned the fundamental principle of give-and-take or quasi-symmetric social exchange that, up until recently, was regarded as a main characteristic of the German system of consensual company-level labour relations (Wever 1995). In 13% of the cases the workforce did not receive any management pledges in return for sometimes quite sizeable monetary concessions. Compared to the works council survey undertaken by WSI in 1999, which contained a set of nearly identical questions on company-level pacts for employment, this percentage nearly doubled (1999: 7%) which might indicate a gradual shift from social partnership exchange to US-type concession bargaining that is predominantly characterised by one-sided labour concessions without explicit management guarantees (Mitchell 1994).

Asymmetric agreements are especially widespread in companies that are not covered by a collective labour agreement. While 11% of works councils in companies covered by a union-negotiated sectoral or company-level collective agreement did not receive employer guarantees in concessionary pacts, more than a third (35%) of the concessionary pacts in companies not covered by a labour agreement did not provide for explicit management pledges. In addition to this ‘safety net’ effect provided by union-negotiated collective agreements, results of logistic regression analysis reported in Table 3 (below) show that in those cases where conflictual labour-management relations predominate (operationalised as frequent management interference in co-determination), the probability of asymmetric agreements increases significantly.

Table 3: Binary logistic regression: economic and structural effects on the prevalence of asymmetric concessionary contracts

| Dependent variable | No employer guarantees negotiated | |
|--|-----------------------------------|-------|
| | Odd ratios | Sig. |
| Only minor management interference in co-determination | 0,268*** | 0,001 |
| Good/Very good product demand | 0,438** | 0,029 |
| Good/Very good profit situation | 0,486* | 0,098 |
| No collective contract (Reference) | | 0,043 |
| Industry-wide contract | 0,300** | 0,012 |
| Firm-level contract | 0,349* | 0,065 |
| Eastern Germany | 1,222 | 0,610 |
| Manufacturing (Reference) | | 0,453 |
| Construction | 4,311* | 0,053 |
| Trade | 0,967 | 0,967 |
| Traffic and communications | 0,997 | 0,996 |
| Banking and insurance | 2,129 | 0,188 |
| Corporate services | 2,172 | 0,173 |
| Other services | 0,999 | 0,998 |
| Other sectors | 0,840 | 0,883 |
| 20-50 employees (Reference) | | 0,017 |
| 51-100 employees | 4,022 | 0,213 |
| 101-200 employees | 7,324* | 0,058 |
| 201-500 employees | 2,475 | 0,383 |
| 501-1000 employees | 5,731* | 0,095 |
| > 1000 employees | 1,782 | 0,585 |
| Constant | 0,144 | 0,072 |
| N | 433 | |
| Modell Sig. | 0,000 | |
| Nagelkerkes R ² | 0,241 | |

* = Significant at 10% level. ** = Significant at 5% level. *** = Significant at 1% level.

Source: 2003 WSI Works Council Survey.

Even in those cases where agreements share the most basic prerequisite of social exchange, i.e. where concessionary pacts contain some form of give-and-take, it is still next to impossible to come to a final 'objective' estimate with respect to the 'fairness' of the negotiated trade-off. Generally accepted criteria to compare different quantitative as well as qualitative items do not exist and the costs and benefits resulting from concessionary pacts for employment are distributed unequally among employees who have differing preferences (Oswald 1985; Farber 1986). It is, therefore, not possible to determine the degree of fairness in the wage-employment trade-off at the aggregate workforce level. Furthermore, because of existing information asymmetries workers' representatives are usually not in a position to assess correctly the likely employment outcomes in the absence of concessions and employment guarantees. They are, therefore,

not able to estimate the probability that the employer is in fact determined to terminate the hitherto existing employment guarantees that had become part of the implicit employment contract.

False promises?

Even when employment guarantees are given and risk-averse workforces are promised future increases in formal job security, the problem of company compliance with the negotiated provisions still exists. Obviously, even by negotiating concessions management cannot reduce uncertainty and limit the severity of future exogenous economic shocks that might result from unexpected changes in product demand or short-term capital shortages. So, essentially, management can only pledge its intent to pursue certain personnel and business strategies in the face of sometimes rapidly changing economic environments but cannot effectively rule out converse future policies during the course of the pact. Before they give their consent to concessionary pacts, workers' representatives, therefore, have to evaluate carefully the chances for company survival, the level of economic uncertainty and the probability that the specific employee concessions will in fact solve the underlying economic problems and enable management to fulfil its promises. Obviously, information asymmetries with respect to hard economic data reduce the probability that workers' representatives can come to an accurate assessment of the company's overall future prospect.

In about 9% of the cases in our sample, management broke one or more of the security guarantees it had given in the pact for employment. The guarantee most frequently violated was the promise not to conduct outsourcing for the duration of the contract. Table 4 (below) presents data on the economic and structural determinants for the occurrence of pact violations. As in the case of asymmetric concessionary pacts, a currently favourable profit situation, well-functioning social partnership in terms of infrequent management interference in the works council's co-determination rights and the presence of an industry-wide labour agreement all significantly increase the chances that management will live up to the promises given in the concessionary pact. Conversely, workers in wholesale and retail trade and, surprisingly (although only statistically significant at the 10% level), in companies currently experiencing a favourable demand situation bear a high risk that the company will violate at least one of the job security guarantees. While in the case of commerce the breach of agreement might be explained by weak domestic demand, the cyclical nature of business and the high level of uncertainty existing in the industry (Voss-Dahm 2003), the negative effect of a strong demand situation remains a serious puzzle. Obviously, while profits very closely correspond to a company's 'ability to pay' or 'ability to comply', product demand does not likewise increase workers' representatives' bargaining power and monitoring capacity.

Concessionary pacts and the industry-wide collective bargaining pattern

Even though the extensive use of opening clauses in industry-level agreements allows for much more inter-company heterogeneity with respect to pay and working time standards compared to just a decade ago, a still significant share of the concessionary pacts

Table 4: Binary logistic regression: economic and structural effects on the breach of management guarantees during the course of the contract

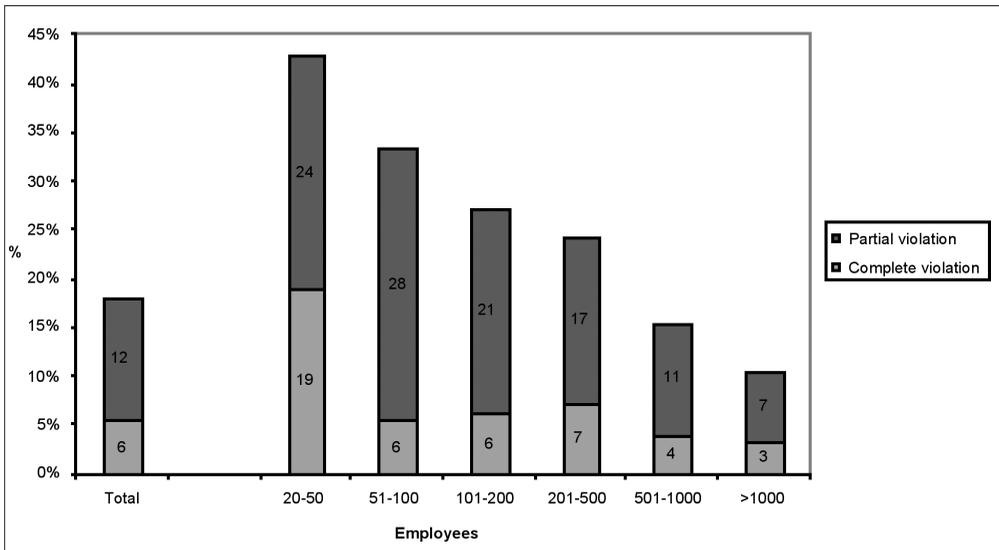
| Dependent variable | Breach of guarantees | |
|--|----------------------|-------|
| | Odd ratios | Sig. |
| Only minor management interference in co-determination | 0,234** | 0,016 |
| Good/Very good product demand | 2,374* | 0,067 |
| Good/Very good profit situation | 0,201*** | 0,001 |
| No collective contract (Reference) | | 0,000 |
| Industry-wide contract | 0,148** | 0,023 |
| Firm-level contract | 0,952 | 0,952 |
| Eastern Germany | 1,942 | 0,158 |
| Manufacturing (Reference) | | 0,403 |
| Construction | 4,849 | 0,319 |
| Trade | 5,598** | 0,024 |
| Traffic and communications | 0,624 | 0,485 |
| Banking and insurance | 0,000 | 1,000 |
| Corporate services | 1,907 | 0,348 |
| Other services | 1,573 | 0,403 |
| Other sectors | 0,000 | 1,000 |
| 20-50 employees (Reference) | | 0,066 |
| 51-100 employees | 0,088* | 0,065 |
| 101-200 employees | 0,000 | 1,000 |
| 201-500 employees | 0,067*** | 0,005 |
| 501-1000 employees | 0,207* | 0,090 |
| > 1000 employees | 0,336 | 0,200 |
| Constant | 4,556 | 0,268 |
| N | 362 | |
| Modell Sig. | 0,000 | |
| Nagelkerkes R ² | 0,322 | |

* = Significant at 10% level. ** = Significant at 5% level. *** = Significant at 1% level.

Source: 2003 WSI Works Council Survey.

in our sample conflict with the corresponding labour agreement (see Figure 6, below). Evidence for a gradual increase in the share of pacts that contradict the industry-wide labour agreement is found by comparing the most recent data to the results of the comparable WSI survey conducted in 1999. While four years ago just 14% of the works councils that negotiated a company-level pact for employment conceded that the whole pact (2%) or single parts of it (12%) conflicted with an existing labour agreement, this share rose to 18% (6% / 12%) in 2003. On the other hand, the works councillors also stated that in 84% of those cases where a company-level pact for employment initially contradicted the industry-level labour agreement, the union finally agreed to these changes so that the pacts were legalised by union consent. Obviously, unions adopted a strategy of flexibly reacting to employer demands in order to stabilise the collective bargaining system and to counter ongoing trends of 'uncontrolled' or 'wild' decentralisation.

Figure 6: Share of concessionary pacts violating existing industry-level labour contracts (in % of all establishments with a pact that are also covered by a collective labour contract)



Source: 2003 WSI Works Council Survey.

Concessionary pacts for employment that contradict industry-wide labour agreements are especially widespread in the group of small and medium-sized companies. In nearly every second pact for employment, in establishments with up to 50 employees, works councils had to accept an agreement by way of violating an existing industry-level agreement. Obviously, the ongoing process of decentralisation of collective bargaining and of fragmentation of national industrial relations systems overstrains the resources and capabilities of workers' representatives, especially in small and medium-sized establishments. While attempts to obtain concessionary pacts at large corporations regularly get the attention of trade unions and the national media so that overt social dumping is fairly rare, workers in small and medium-sized companies are left largely unprotected from employer pressures.

Summary and outlook

This paper demonstrates that even in the German industrial relations system, which is still characterised as a prototype of a 'co-ordinated market economy' (Hall and Soskice 2001) in international comparative analyses, exogenous economic pressures, partly stemming from increasing levels of transnational economic integration, have led to a deterioration of the system's coordination capacity, both procedurally with respect to its institutional setting as well as substantively with respect to the economic outcomes the system generates. While along the procedural dimension the trend towards an 'erosion of the German system of industrial relations' (Hassel 1999) and 'organised decentralisation' (Traxler 1995) is by now well documented (see also Flecker and Schulten 1999;

Mückenberger 2003; Müller-Jentsch and Weitbrecht 2003; Tüselmann and Heise 2000; Bosch 2004), the present paper documents the substantive erosion of established pay and work rule standards at the company level.

Processes of controlled, as well as uncontrolled, decentralisation of industrial relations decision-making from the industry to the company level have led to an increase in the rights and responsibilities of local workers' representatives while, at the same time, have reduced workers' representatives' secondary bargaining power that was formerly provided by the existence of binding industry standards. It is clear that existing national systems of coordinated collective bargaining are less and less capable of taking wages out of competition that is increasingly global in scope.

The empirical analysis shows that concessionary pacts for employment and competitiveness can be interpreted as the outcome of strategic bargaining between management and workers' representatives that leads to an increase in internal monetary, numerical as well as organisational flexibility while at the same time external flexibility is reduced, i.e. employment stability is increased. Both with respect to the level of symmetry existing in the exchange relationship as well as with respect to the probability of employer compliance with the negotiated employment guarantees, multivariate analyses identified the positive role that union-negotiated collective labour agreements play as they provide an exogenous safety function and make one-sided agreements, as well as breaches of contracts, less likely.

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