

Derogation Clauses and the System of Collective Bargaining

Deviant Collective Bargaining Agreements in the
German Metalworking Industry
2004-2006

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Derogation Clauses in the German Metalworking Industry

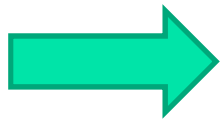
Factors of erosion of the system of industrial relations:

- **Weakening of collective bargaining actors:**
 - Organisational density of unions and employers' associations
 - Employers' associations without membership obligation to apply collective bargaining agreements
- **Decreasing coverage of collective bargaining agreements**
- **Growing competition between collective bargaining standards and between union and non-union sectors**
 - Service industries
 - Temporary work
- **Uncontrolled ("wild") decentralisation**

Derogation Clauses in the German Metalworking Industry

Derogation Clauses: Shortfalls of collective bargaining norms:

- Legitimised by collective bargaining actors
- Negotiated by collective bargaining actors (at least unions) in form of a collective bargaining agreement



Pandora's box for uncontrolled erosion or instruments of re-vitalisation of collective bargaining?

- Metalworking Industry one of the leading sectors concerning implementation
- 850 deviant collective bargaining agreements between 2004 and 2006
- Interviews with collective bargaining experts from union and employers' associations

German topic, but:

- Derogation clauses and shortfalls also in other European countries
- International repercussions

Derogation Clauses in the German Metalworking Industry

Development of derogation clauses in the metalworking industry:

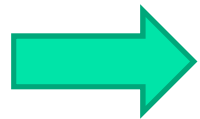
- 1993: Hardship clauses (Eastern Germany)
- 1995 (and the following): Recapitalisation clauses (Western Germany)
- 2004: Collective bargaining agreement of Pforzheim
 - Improvement of innovation capacity, competitiveness and investment conditions for firms
 - Employment protection or creation of new jobs

Union's motives:

- External: Pressure from red-green government (threat of opening clauses by law)
- Internal (1): Growth of wild decentralisation on plant level
- Internal (2): In-transparency of practice of recapitalisation clauses (competencies, number of agreements, contents)

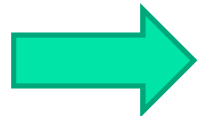
Derogation Clauses in the German Metalworking Industry

Problems of derogation practice after Pforzheim – Siemens and others
(working time extension plus works councils going it alone)



Coordination rules by union:

- Obligation to report negotiations to headquarters and acceptance of agreements by headquarters
- Negotiations by local union level controlled by the regional administration level (Bezirke)
- Organisation of membership participation obligatory (collective bargaining commission, ballots about start of negotiations and acceptance of agreement, continuous information of members)

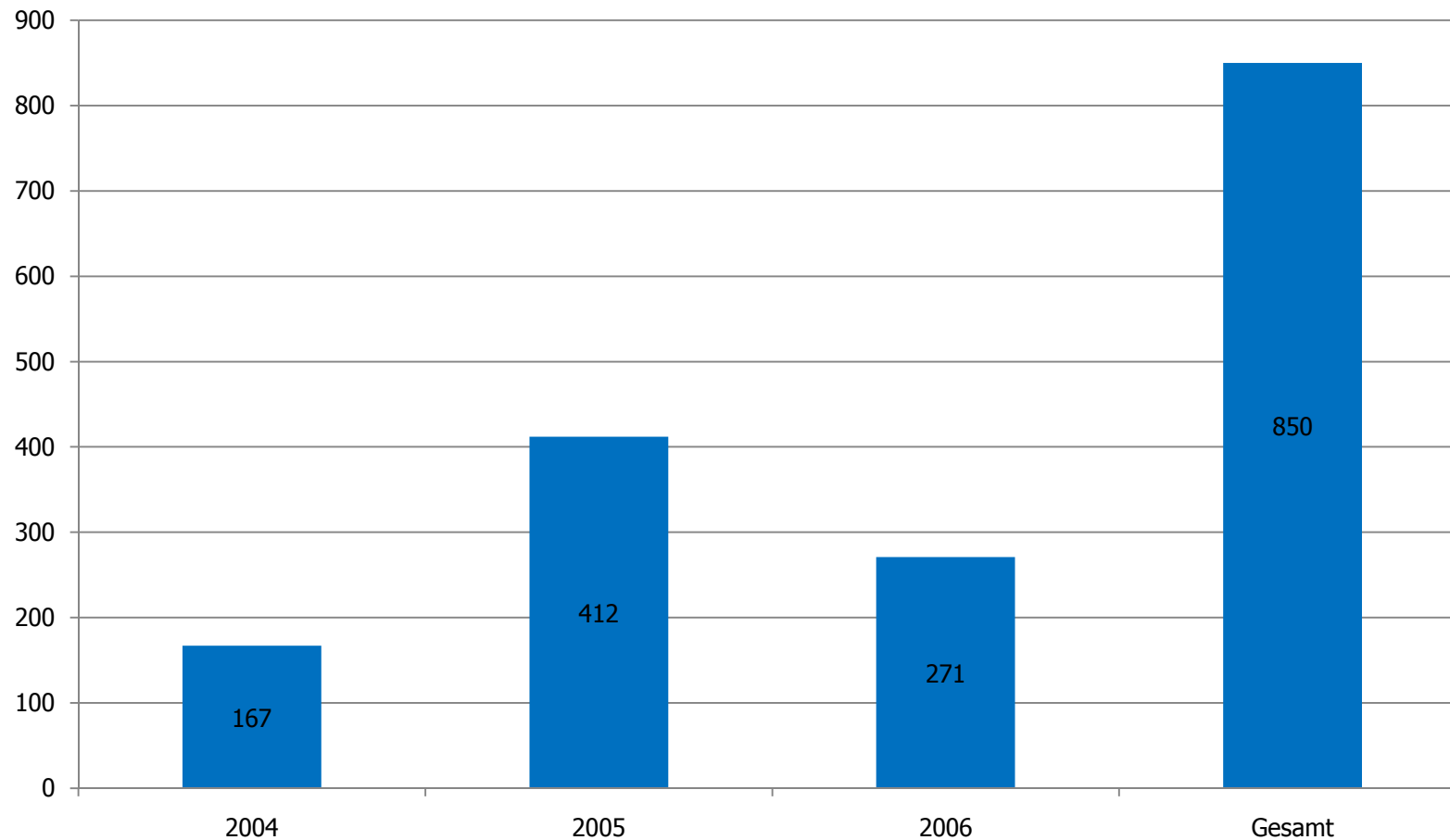


Procedural Effects:

- Transparency of agreements (number, contents)
- Standardisation of processes
- New forms of decentralised collective bargaining and membership participation (implementation depends on regional strategies of union)

Analysis of Deviant Collective Bargaining Agreements

Spread of Deviant Collective Bargaining Agreements



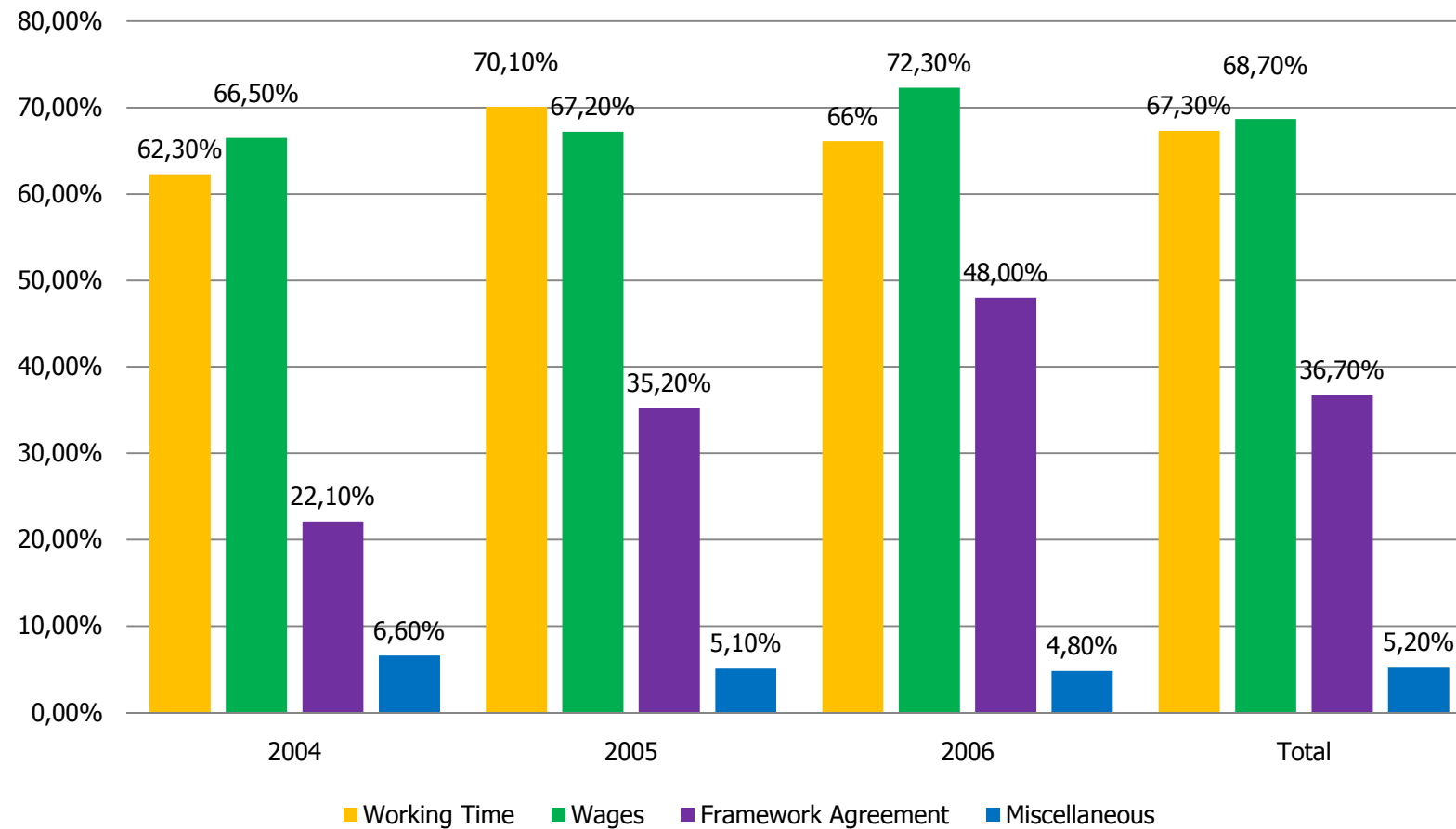
Analysis of Deviant Collective Bargaining Agreements

Deviation Rate (Shares of DCBA in all Plants Organised by Employers' Associations 2006)

Total (850 agreements)	20,2%
Without agreements expired	10,5%

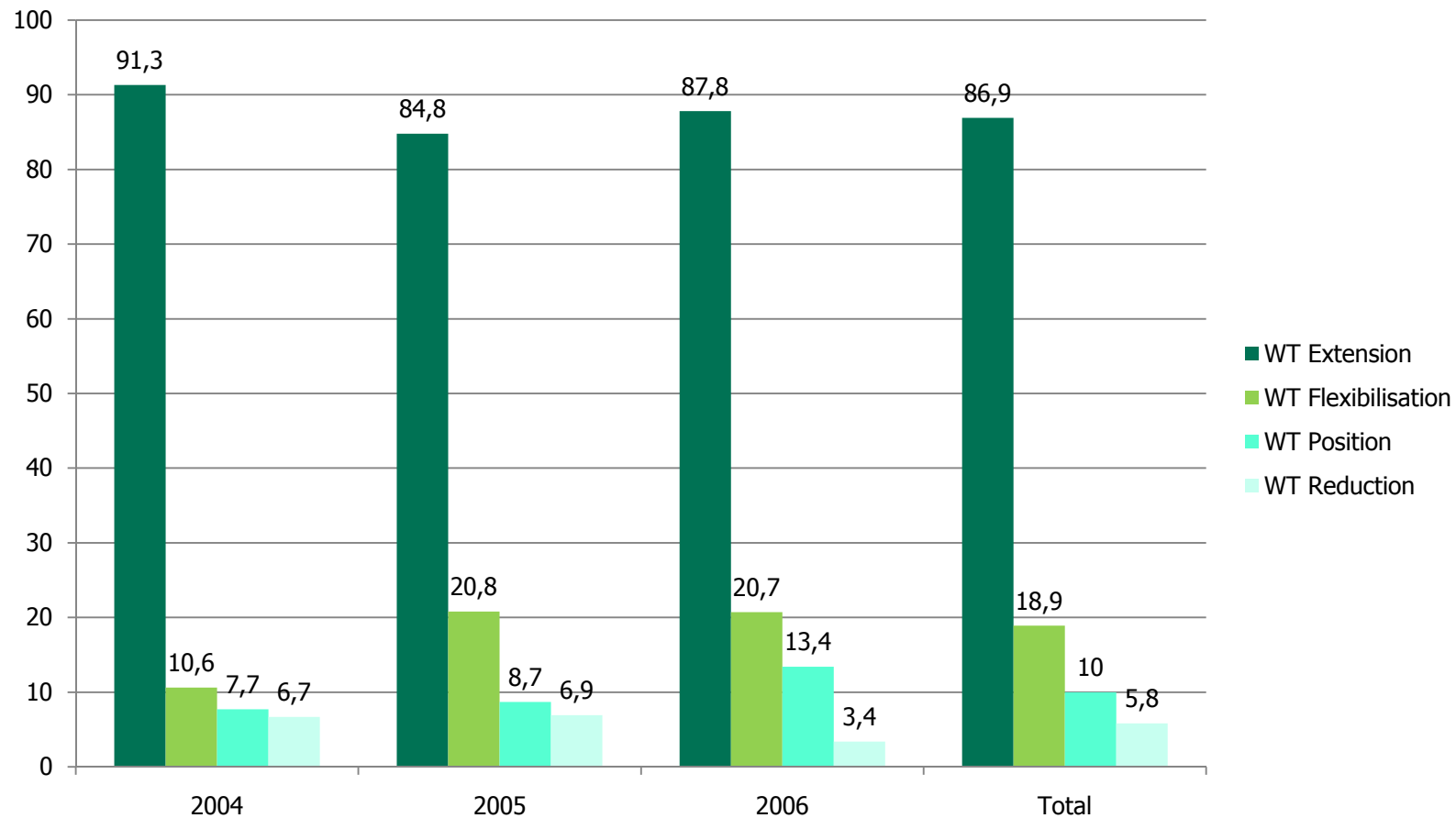
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Topics of Material Concessions, Shares of all DCBA



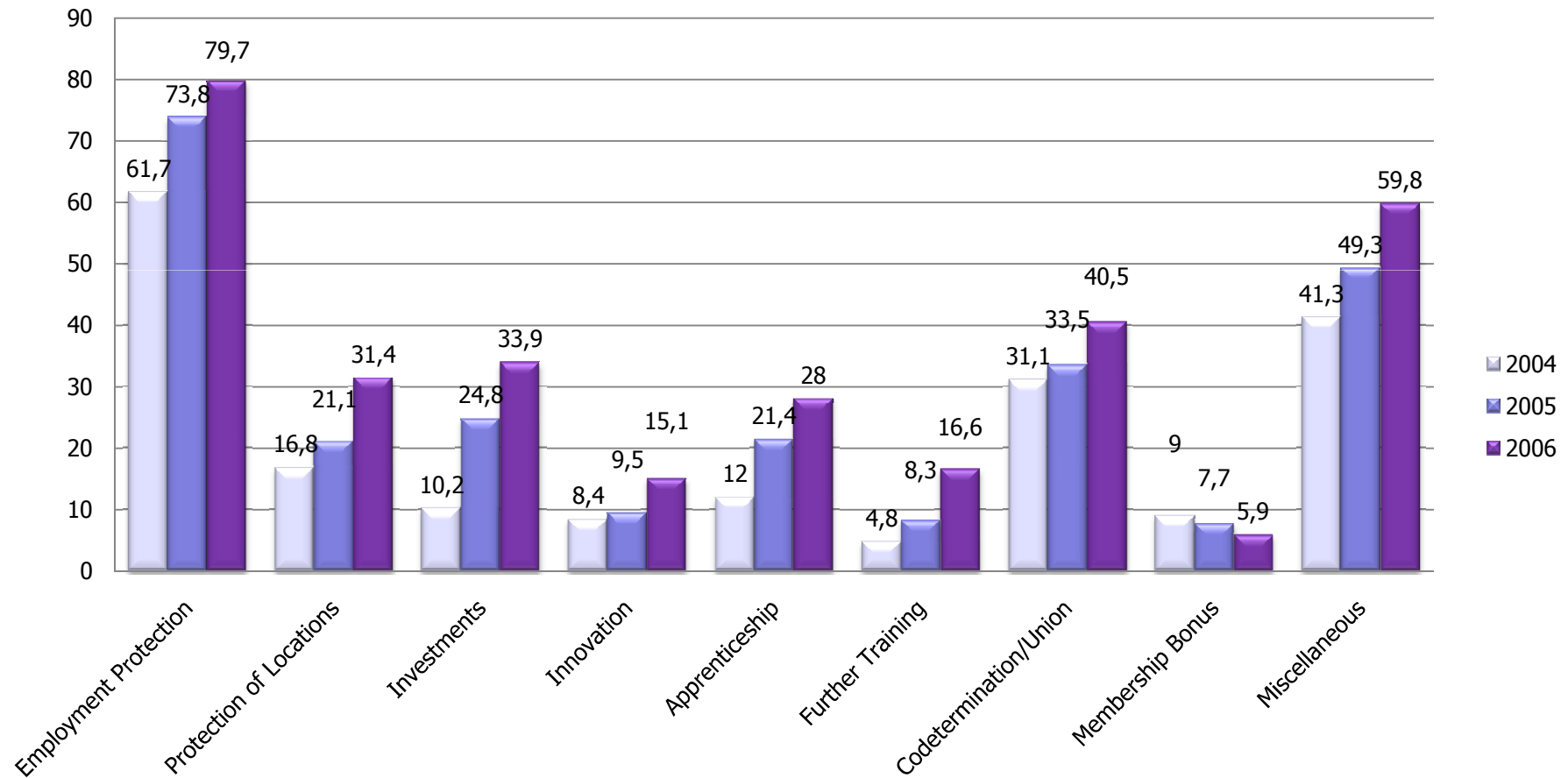
Analysis of Deviant Collective Bargaining Agreements

Topics of Working Time, Shares of all DCBA with Working Time Concessions



Analysis of Deviant Collective Bargaining Agreements

Shares of Concessions by Enterprises, Shares in all DCBA



Results

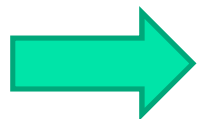
Problems and achievements:

Problems:

- Dominance of working time extensions
- Different practices concerning membership participation

Achievements:

- Strengthening of transparency
- Standardisation of processes (negotiations, decisions, controlling)
- Decrease in number of d.c.b.a.
- Improvements in negotiating concessions of enterprises



- Improvement of control of deviant collective bargaining by union
- Derogation clauses can be a contribution to handle problems of the collective bargaining system

Results

Successful union control coupled with substantial changes in the corporatist collective bargaining system of the metalworking industry:

- New architecture of the system:
 - Latent or manifest competition between bargaining norms
 - Control of deviances continuous task for union
- New logic of collective action of associations:
 - Growing importance of membership logic (vs. logic of influence): More room of manoeuvre for enterprises (employers' associations) and more membership participation (unions)
- New logic of interaction
 - Weakening of "partnership in conflict" (mutual recognition of interests) because enterprises can enforce concessions (power asymmetry because of internationalisation, financialisation...)
 - Union reacts by trying to improve its capability of conflict by membership participation
 - Reduction of power asymmetry may promote resurgence of partnership, but locally based