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Collective Bargaining in Germany

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Structure of presentation

1. The legal framework of collective bargaining (CB)
2. The actors: Trade unions and employer's organization
3. Coverage by collective agreements (CA's)
4. Content of collective agreements
5. Responses to the great recession and the Covid-19 crisis

1.1 The legal Framework: Principal characteristics of CB in Germany

Key features	2000	2017
Actors	Trade unions, individual employers and employers' associations	
Bargaining levels	Dominance of sector level, increasing importance of company level	
Favourability principle	Company CA's cannot undercut sectoral CA's, increasingly opening clauses in sectoral CA's	
After-effect	Unlimited after-effect until it is replaced by a new CA (not for newly employed)	
Extension mechanism	Extension with the agreement of the national 'Bargaining Commission' if CA covers 50%+ of employees in the respective bargaining area	Since 2015 extension possible if in public interest; extension of minimum working conditions agreed by the social partners in an industry by the Ministry of Labour

1.2 The legal Framework: Principal characteristics of CB in Germany

Key features	2000	2017
Collective agreement unity	Only one CA can be applied in a company	In 2010 competing CA's in a company allowed, since 2015 only the CA of the strongest unions can be applied
Strikes	Legal strike must be organized by a trade union, strikes prohibited while agreements are in force, minimum services in essential services have to be provided	
Lock-outs	Prohibited as an offensive tool (initiation of a dispute by the employer's), allowed as a defensive tool against selective strikes by the unions within the limits of commensurability	
Enforcement	By the social partners, works councils and individual employees	

2.1 The Actors: Trade Unions (TU)

- No legal criteria for representativeness, TU must be „powerful“
- Most important: Sectoral unions in the German Trade Union Federation (DGB) with around 6 Mil. members 2015)
 - IG Metall 2.274 Mil.
 - Ver.di 2.039 Mil.
 - IG BAU 273 000
- Deutscher Beamtenbund (DBB)(mainly civil servants) 1.294 Mil.
- Christian Trade Unions 280 000
- Non affiliated Unions 270 000

In DGB and DBB: Only sectoral TU's have the mandate to negotiate

2.2 The Actors: Trade unions

Declining organisational power (OP) of German Trade Unions:

- Trade Union Density: 36 % in 1991 - 16,5 % in 2018
- Still high OP in some core sectors (*manufacturing/ public service*)
- In other industries (*mainly private services and SME's*) loss of power to bring employers on the bargaining table

But high institutional power through co-determination in supervisory boards and through works councils (WC)

WC's: strong rights of information and codetermination and sufficient resources (*release from work, additional staff, training at employers costs etc.*)

- 174,000 German works councillors (WC) were elected on a voter turnout of 80% - high trust
- Around 8,400 WC's released from all work
- 80% of works councillors union members

2.3 The Actors: Employer Associations (EA's)

- Most EA's in the private sector member of the „Confederation of German Employers' Associations' (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).
 - Membership of the BDA of 52 sectoral EA's and 14 cross-sectoral EA's at *Land* level
 - BDA no mandate to negotiate – but coordinates CB
- Also loss of organizational power
 - Overall employer density was 69% in 1997 and 60% in 2014. In the private industry it dropped from 73% in 1988 to 43% in 2014, in the public sector 100% density (Visser 2019)
 - EA's try to retain members by offering membership without the obligation to comply with CA's (so-called '*Ohne Tarifbindung*', OT status).
- EA's mostly less centralized than unions: Federations of Federations

2.4 The Actors: The state

Traditionally no state intervention in CB

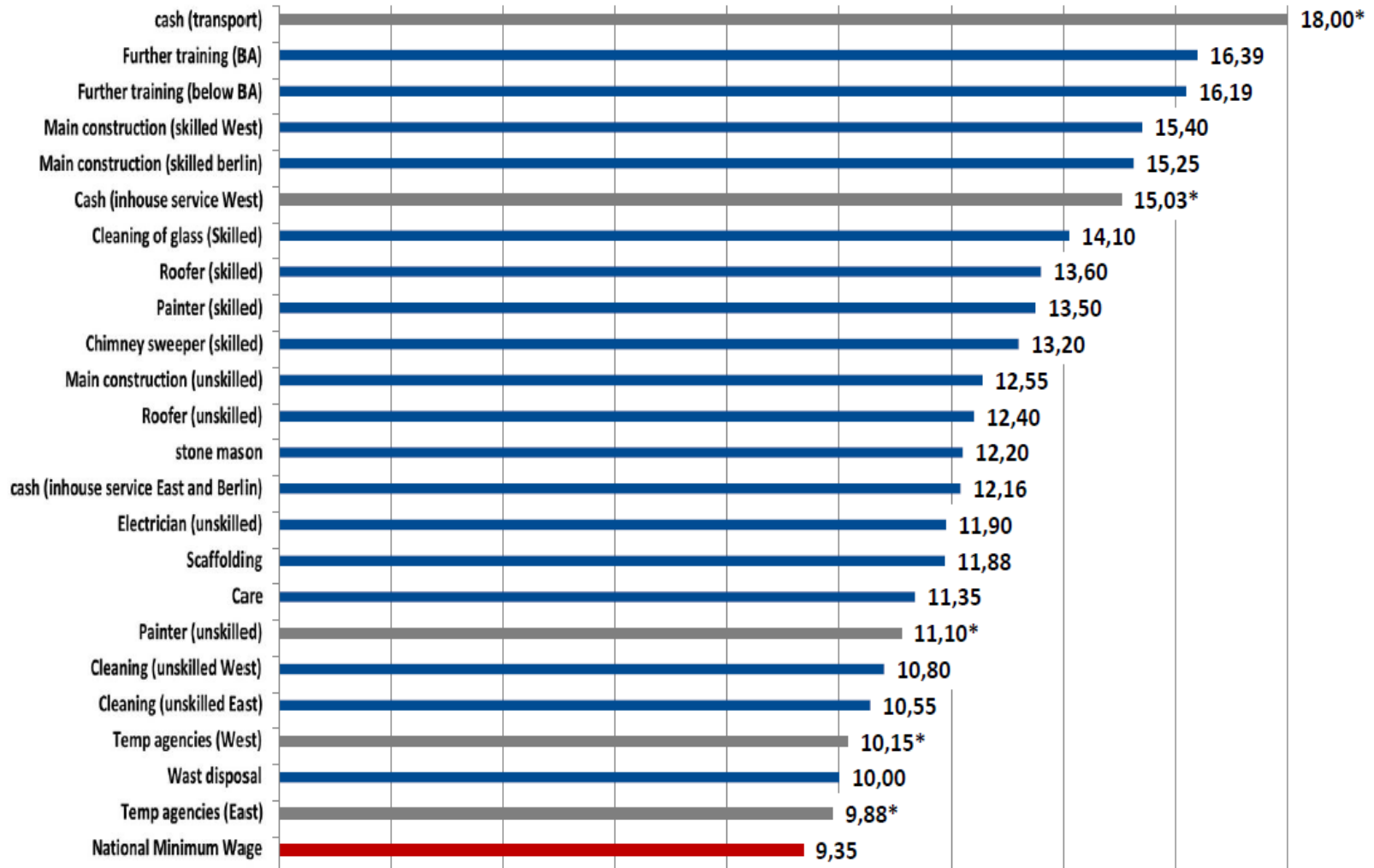
- only 1967 -1977 so called „Concerted Action“ – voluntary guidelines for CB
- Intervention only at the demand of the social partners: extension of CA's

Changed because (1) of posting of workers in the EU and (2) the erosion of CB in some industries and high levels of very low wages:

- Since 1996: Industry specific minimum wages to protect CA's against wage dumping through posted workers
- Since the early 2000's prevailing minimum wages in some Länder for public contracts
- 2015 National Statutory Minimum Wage

2.5: The Actors: The State

Industry specific minimum wages, May 2020

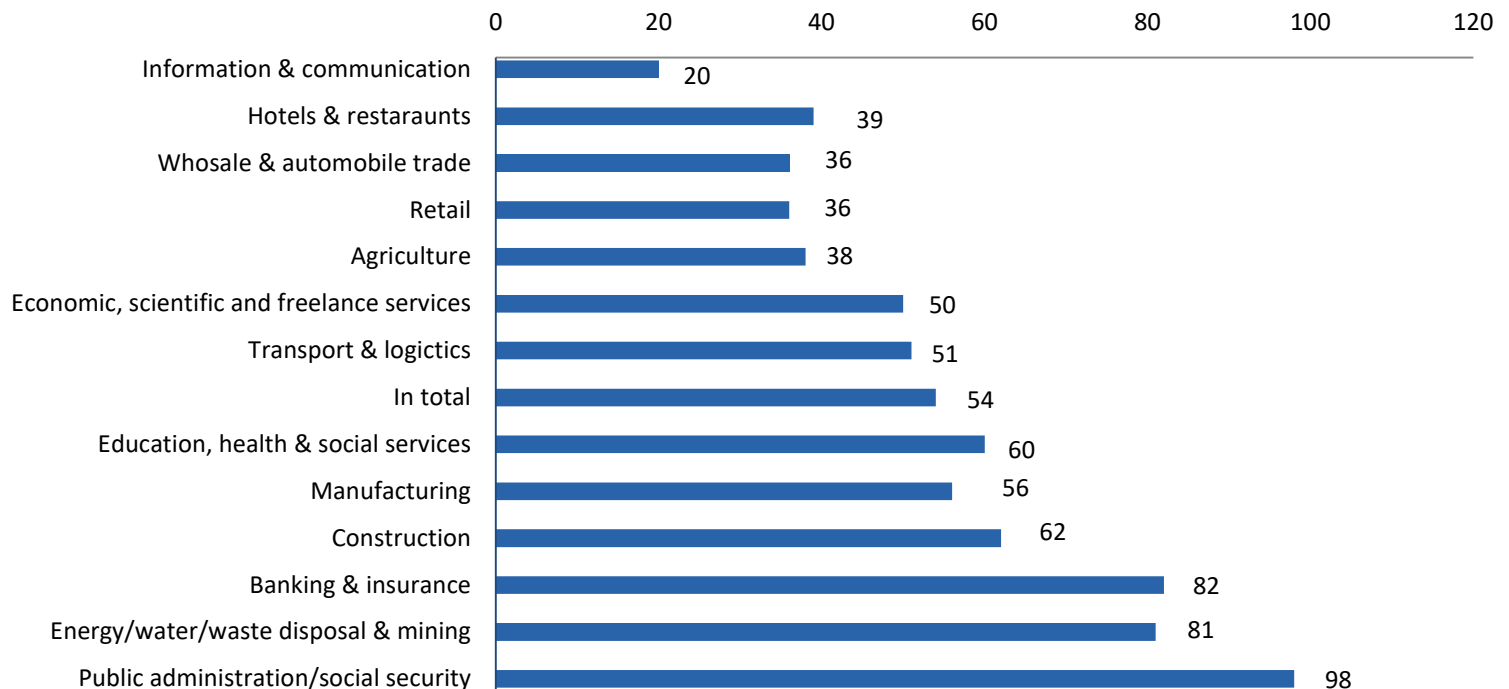


3. Coverage by CA's

Substantial decline of coverage by CA's: From 85% in 1990 50 54% in 2018

Reasons: Fragmentation of companies, precarious forms of work, structural change, individualisation, globalization

Coverage by sectors 2018



4.1 Content of CA's

Traditional strong role of sectoral CA's: Set labour standards for industries above the legal level, often these norms became laws

Today 40 000 valid CA's - Different types of CA's

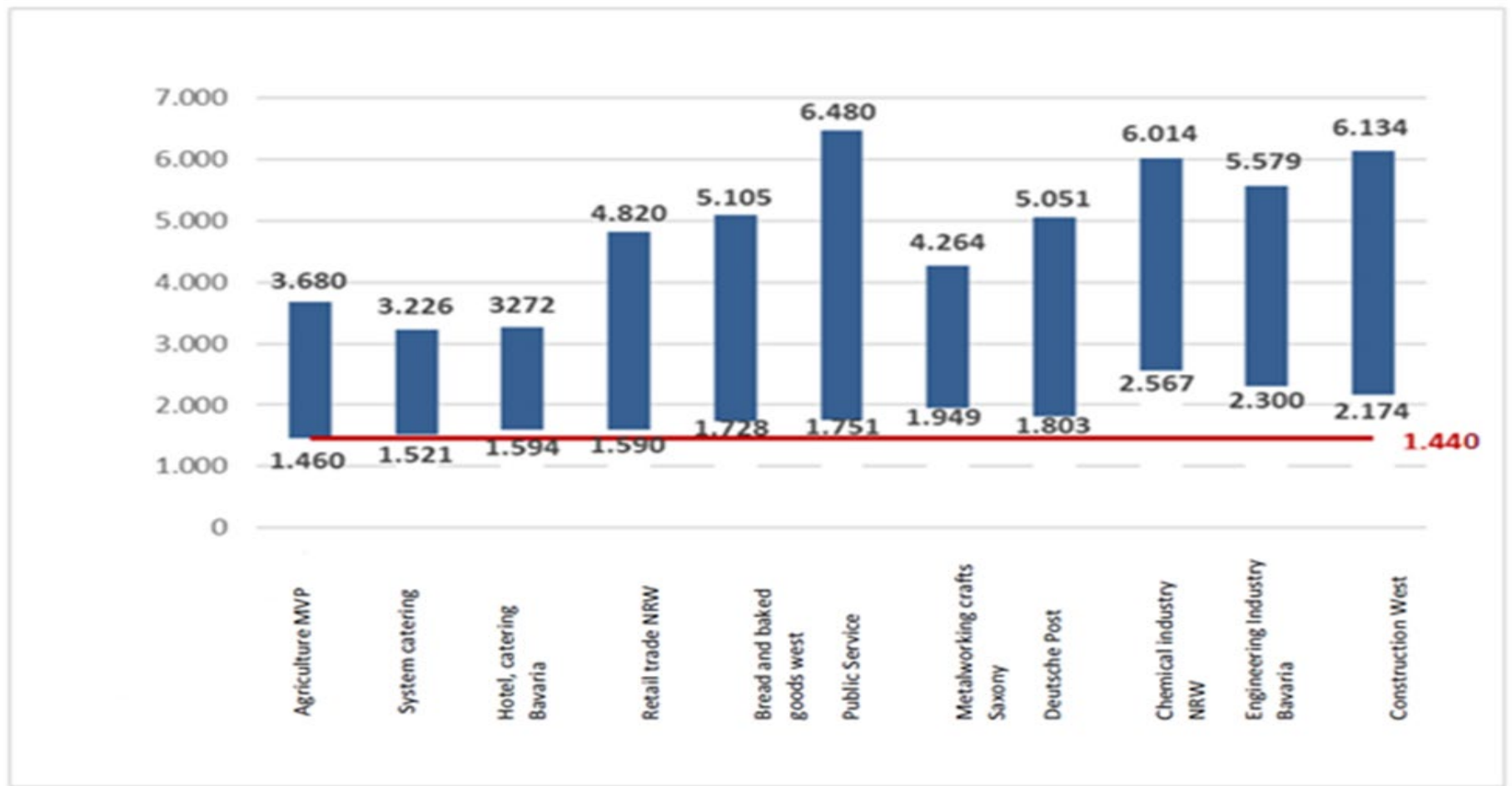
- 1. General Framework Agreements (*Manteltarifverträge*): Regulation of working time, holidays, OHS, terms of notice etc. Wage Framework Agreements**
- 2. (*Lohnrahmentarifverträge*): wage grids and the criteria for the classification**
- 3. Wage setting agreements (*Lohntarifverträge*): The pay rates**
- 4. CA's for special issues training, social funds, levy systems or protection against rationalization**

Validity of CA's: 1, 2, 4 usually 5 years or unlimited with agreed procedures to give notice, 3 mainly 1- 2 years, sometimes longer for example to finance deals on working-time reduction

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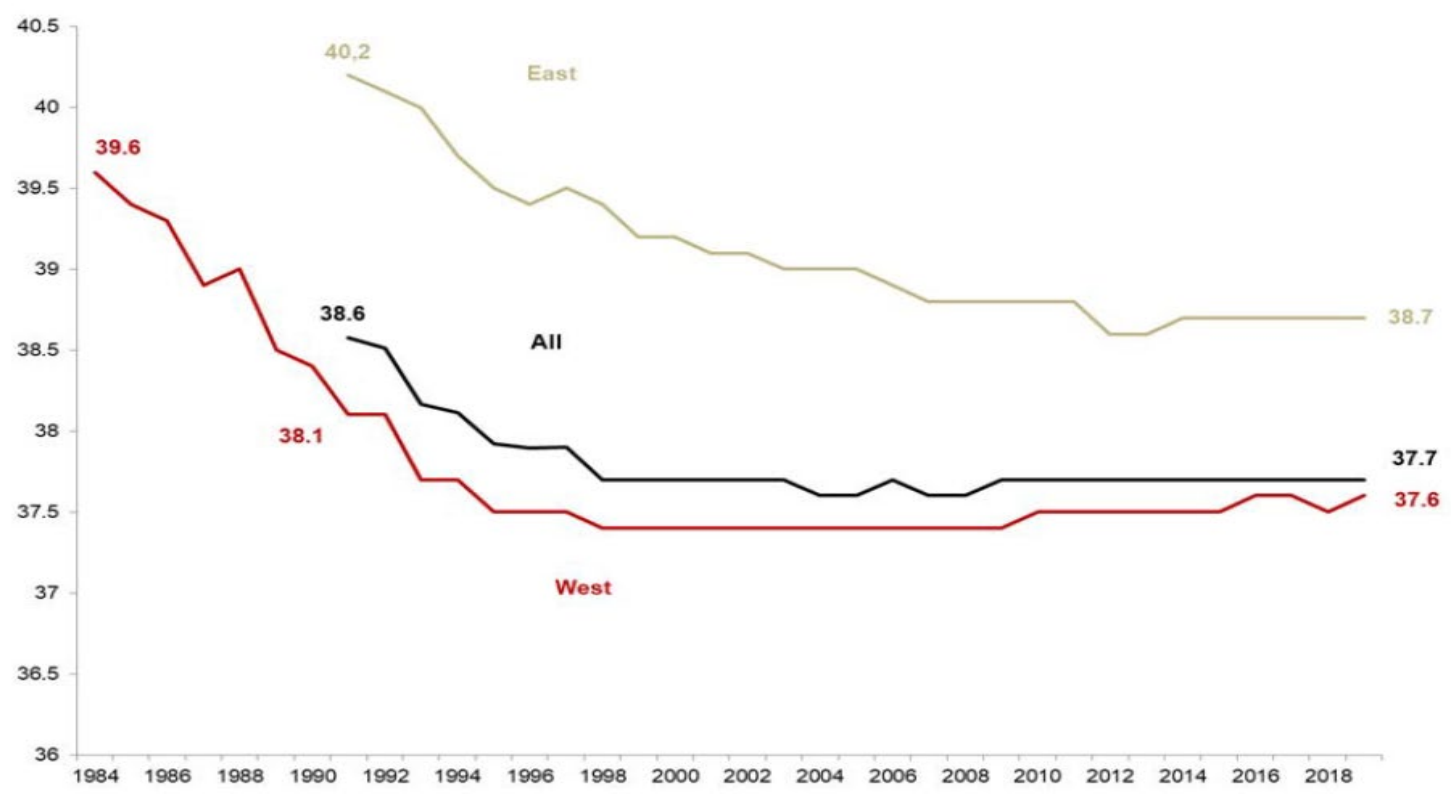
4.2 Content of CA's: Wages

Range of collectively agreed wages and the MW (€ / month) 2018



4.3 Content of CA's: Weekly working hours

Average collectively agreed working hours, 1984-2018



4.4 Working time flexibility

- Flexible distribution of working hours over the year or the product cycle
- Temporary reduction of standard working hrs in a crisis:
Examples:
 - Banking from 39 to 31 hrs/week
 - Metall industry Baden-Württemberg 35 to 30 hrs
- **Brand new: Working time options for employees: Money or time?**
 - German Railways: 5,2% wage increase or 2 hrs reduction of weekly working hrs or 12 days off
 - Metall industry: Yearly bonus of 27,5% of monthly pay or 8 days off per year for employees in shift work, with children under 8 years or with care obligations

4.5 Modernization of classification systems

Example Metall industry:

Before 2002: Four job classifications: for (1) blue-collar workers, (2) masters, (3) technical employees (4) commercial employees

Replaced by a joint classification system based on 5 criteria: 1) Required skills, (2) Prior work experience, (3) Scope for decisions, (4) Cooperation, (5) Management

- Encouragement of work in teams and flat hierarchies
- Blue-collar workers can move up the wage scale easier than in the past because the whole wage scale is open for them.

Implementation over six years, no wage cuts for „losers“

Similar reforms on other industries where social partners are strong, but not in industries with low coverage by CA's like in retail or transport

5.1 Responses to the great recession and the Covid-19 crisis

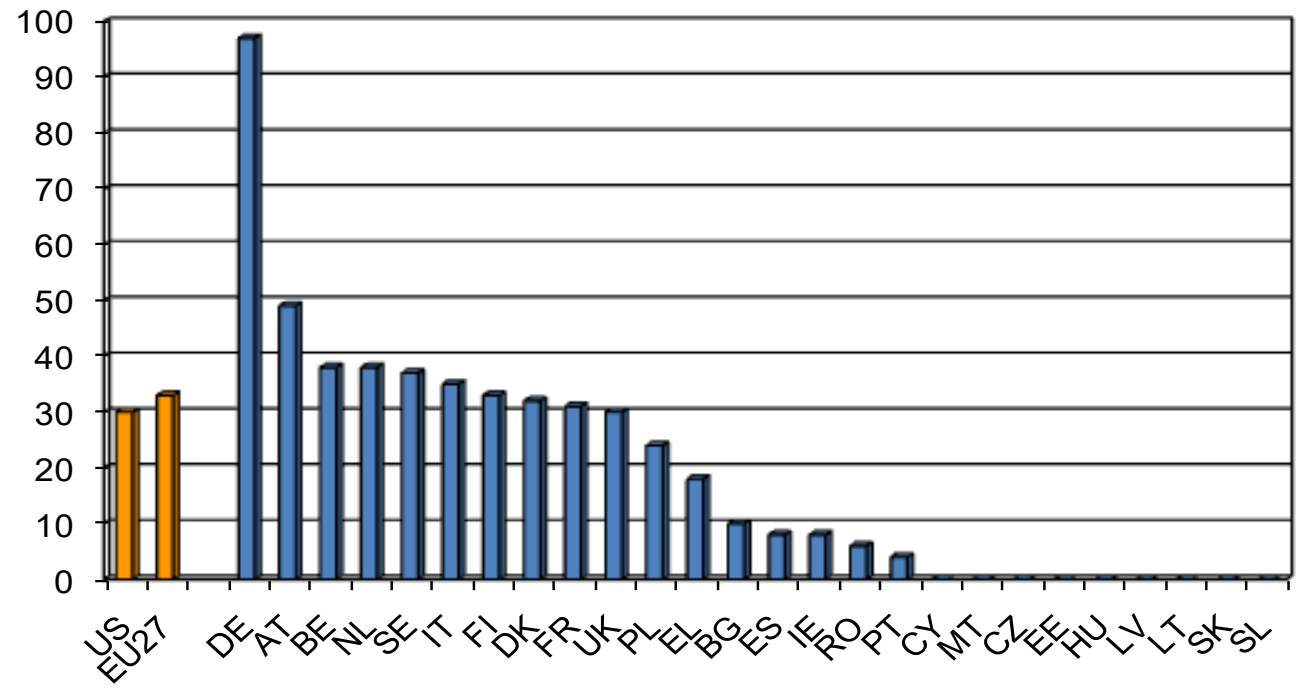
German job miracle in the Great Recession: Reduction of GDP by 4,9% but no decrease of employment and increase of unemployment

Reasons:

- **Wage freeze in manufacturing**
- **Work sharing „dismissal of hours not employees“ by cut of overtime, use of credit hrs from wt-accounts, state subsidized short-time work, temporary reduction of agreed wtime**
- **„Training alliances“ at national, sectoral, local and company level – recruitment of 564 000 new apprentices**

5.2 Responses to the great recession and the Covid-19 crisis

Percentage of fall in total labour input due to fall in working hours per employee in the EU and the US 2008–2009



5.3 Responses to the great recession and the Covid-19 crisis

Covid-19 crisis is different: Shutdown hits also services and self-employed substantially, recovery not yet in sight

Responses:

- Largest assistance program in history by the state - worth a total of €130 billion
- Easier access to short-time (replacement of 60-67% of lost remuneration by the unemployment insurance), state also pays contributions to social insurances
- 500 Million € for new and additional training places

Wage freeze in manufacturing, construction not affected – negotiations ongoing

Impacts to be seen

5.4 Responses to the great recession and the Covid-19 crisis

Estimated short-time workers May 2020

Sector	Short-time workers	in % of all workers
Hotels, Restaurants		72,0
Manufacturing	2.440.306	21,7
Car Industry		40,0
Retail Trade	1.333.999	31,0
Main Construction	21.805	4,1
Total	<u>7.262.620</u>	21,7

For comparison: In May 2009 1.442.667 short-time workers

6. Conclusions

- **Erosion of the traditional autonomous CB-system without state intervention**
- **Declining coverage by CA's and increasing inequality forced state to set minimum standards**
- **Industries with weak social partners – often outdated CA's**
- **In industries with strong social partners: modernization of CA's and innovative new agreements**
- **Exemplary interplay between CB and the state in the great recession and the Covid-19 crisis**