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Industrial and employment relations in Germany

ITC/ILO Master in Industrial and Employment Relations (web seminar)

January 20, 2022

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Structure of presentation

Part I: The legal framework of IR and the actors (trade unions, employer's organizations and the state)

Part II: The practice of collective bargaining

Part III: The practice of German co-determination by works councils and in supervisory boards

Part I. The legal framework of IR and the actors (trade unions and employer's organizations and the state)

I.1 The legal Framework: Principal characteristics of collective bargaining (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

I.2 The legal Framework: Principal characteristics of CB in Germany

Key features	
Collective agreement unity	Since 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, no class actions

I.3 The Actors: Trade Unions (TU)

- No legal criteria for representativeness, TU must be „powerful“
- Only sectoral unions, no company unions in Germany, company bargaining also by sectoral unions
 - DGB (German Trade Union Federation 6 Mil. members)
 - IG Metall (metal industry) 2.274.000
 - Ver.di (services) 2.039.000
 - IGBCE (chemical and engery workers) 651.000
 - IG BAU (construction, cleaning, agriculture) 273 000
 - GEW (teachers) 281.000
 - NGG (food, restaurants, hotels) 204.000
 - EVG (railways, transport) 197.000
 - GDP (police) 177.000
 - Deutscher Beamtenbund (DBB)(mainly civil servants) 1.294.000
 - Christian Trade Unions 280 000
 - Non affiliated Unions 270 000

Trade union density: dropped from 25.9% 1998 to 16,5% 2018

I.4 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

I.5 The Actors: The state

Traditionally no state intervention in CB

- only 1967 -1977 so called „Concerted Action“ – voluntary wage 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 foreign posted workers
- Since the early 2000's prevailing minimum wages in some Länder for public contracts
- Since 2015 National Statutory Minimum Wage

Part II: The practice of collective bargaining

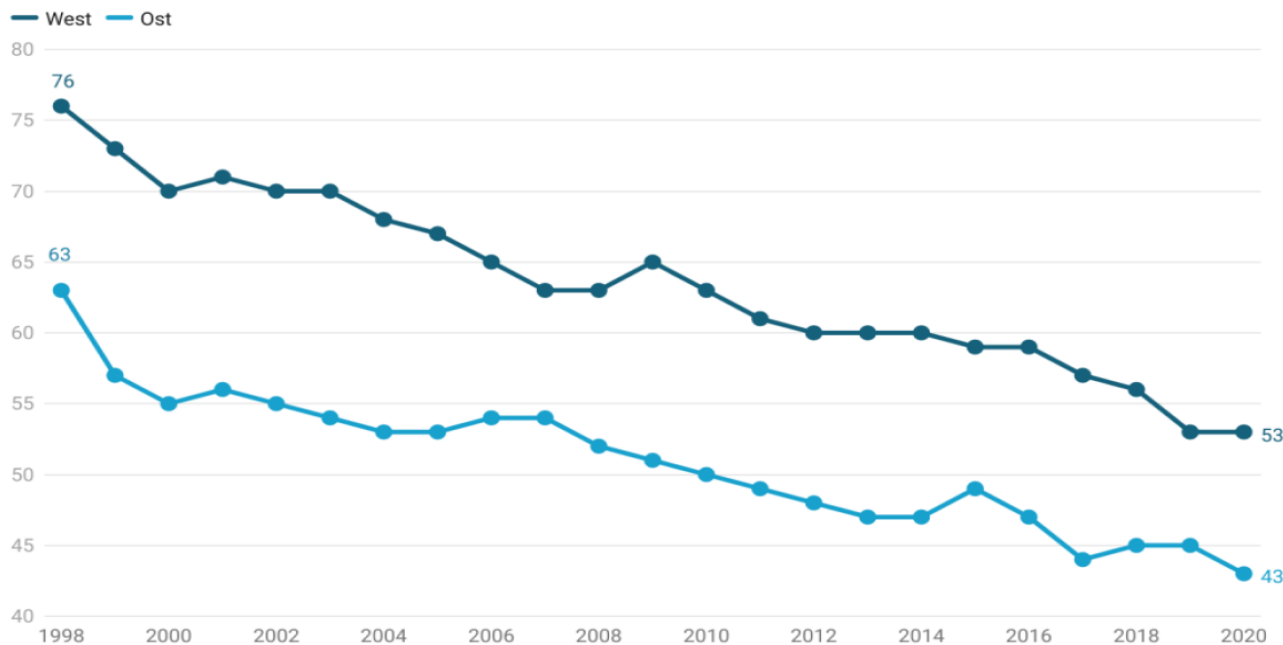
II.1 Coverage by CA's

Offen im Denken

Substantial decline of coverage by CA's: From 85% in 1990 to 51% in 2020

Reasons: Privatization, new business models, outsourcing, precarious forms of work, tertiarisation, globalization, policy changes (deregulation, opposition of employer's organization to extension of CA's)

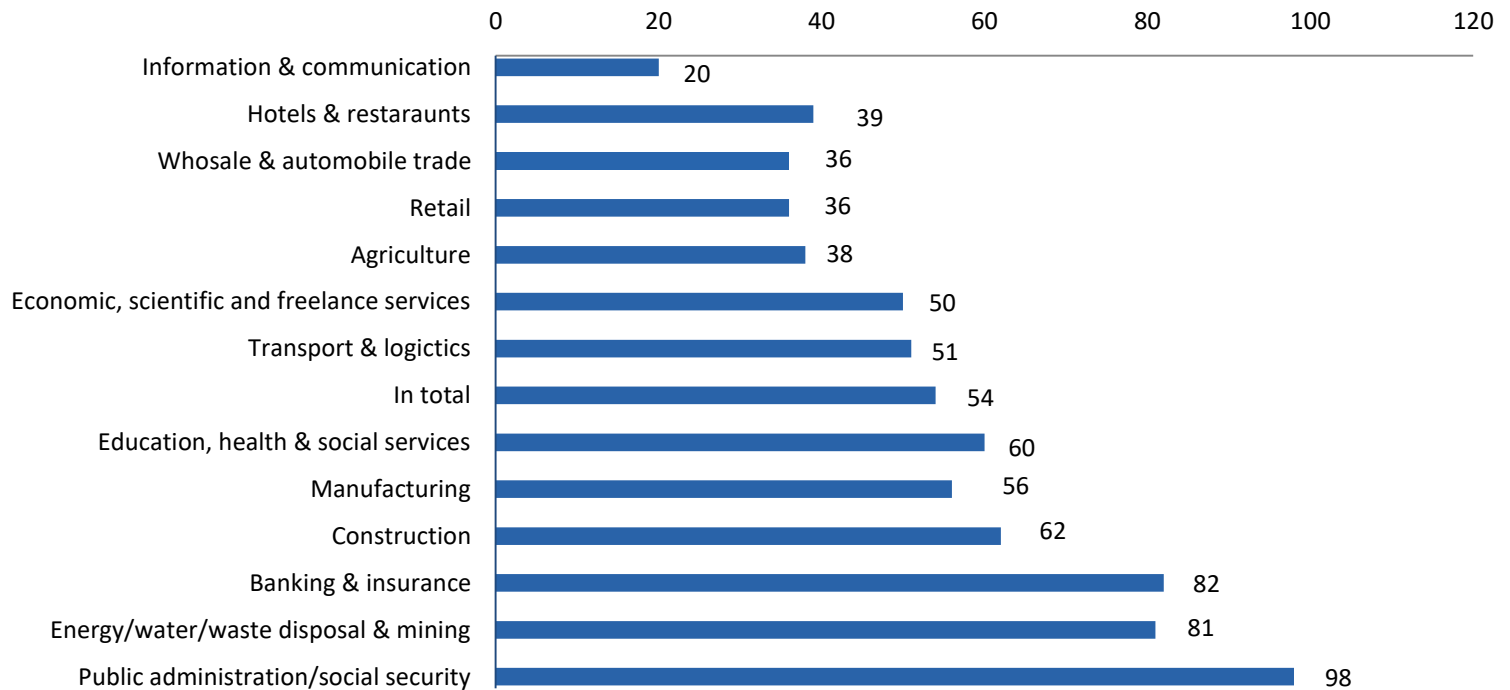
Coverage by collective agreements in East- and West-Germany 1998 - 2020



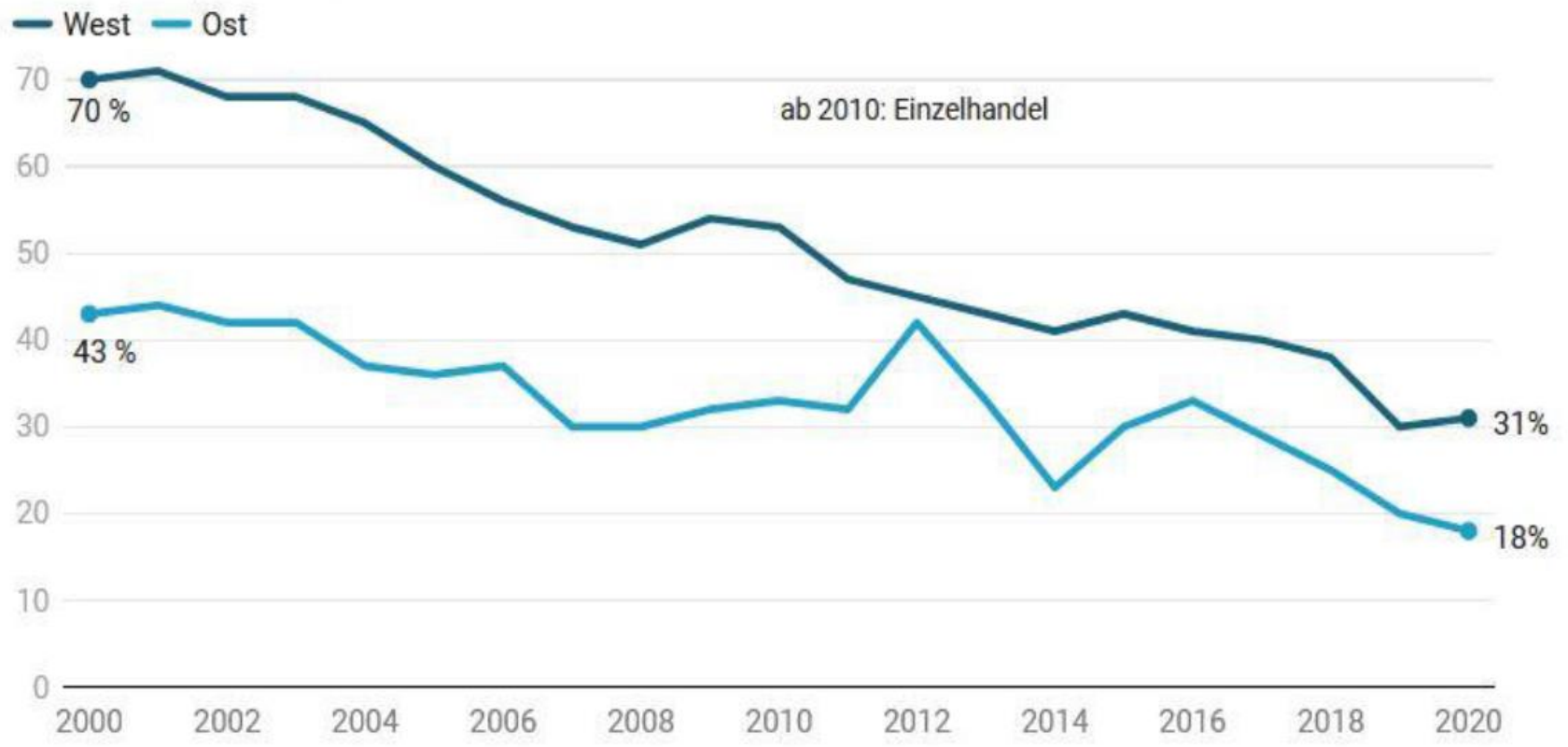
II.2 Coverage by CA's

High sectoral differences

Coverage by sectors 2018



II.3 Impact of the abolition of the extension of the CA in retail trade in 2000 on coverage



II. 4 Types 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

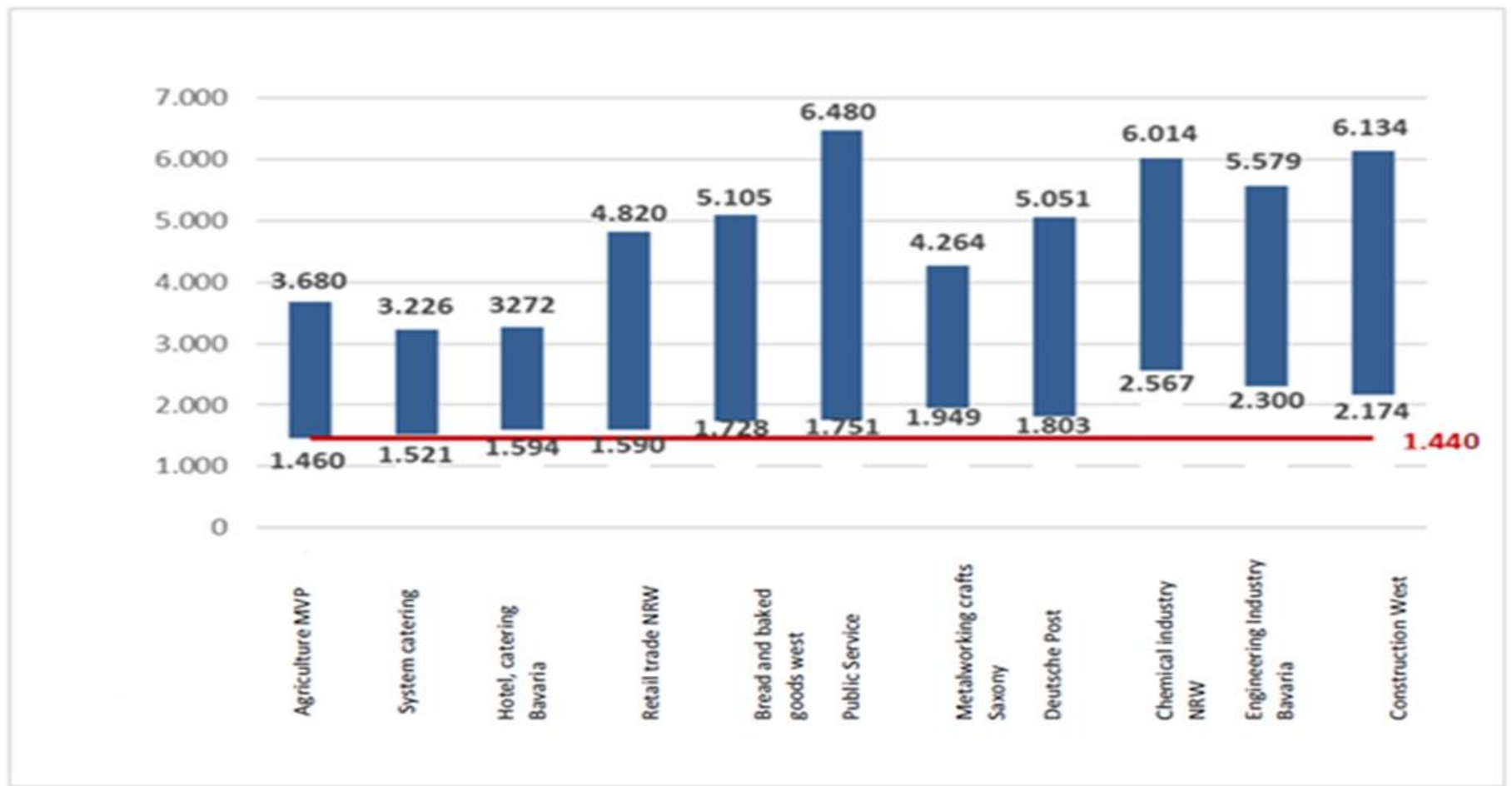
- 1. General Framework Agreements (*Manteltarifverträge*): Regulation of working time, holidays, OHS, terms of notice etc. Wage Framework Agreements**
- 2. (*Lohnrahmentarifverträge*): wage grids and the criteria for the classification**
- 3. Wage setting agreements (*Lohntarifverträge*): The pay rates**
- 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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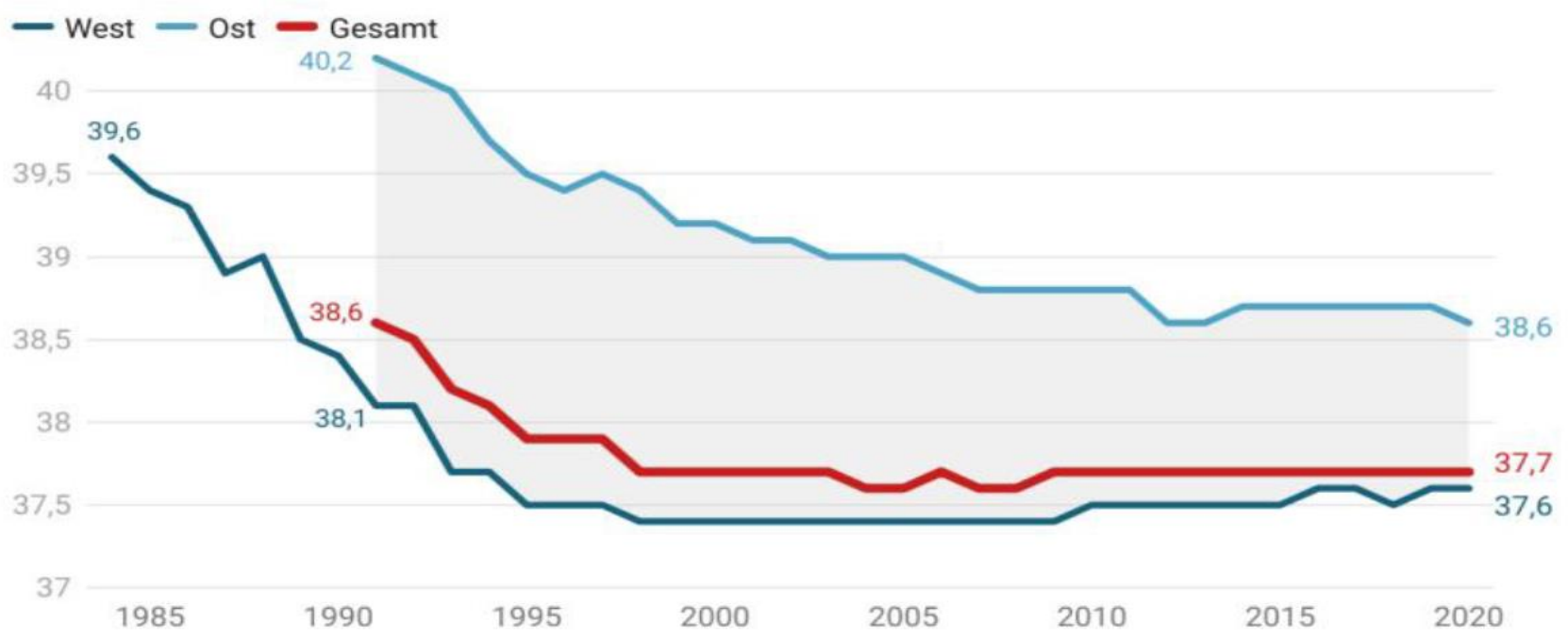
II. 5 Content of CA's: Wages

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



II. 6 Content of CA's: Weekly working hours

Average collectively agreed working hours, 1984-2020



Source: WSI-Tarifarchiv (Bispinck)

II. 7 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

II. 8 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

II. 8 Responses to the great recession and the Covid-19 crisis

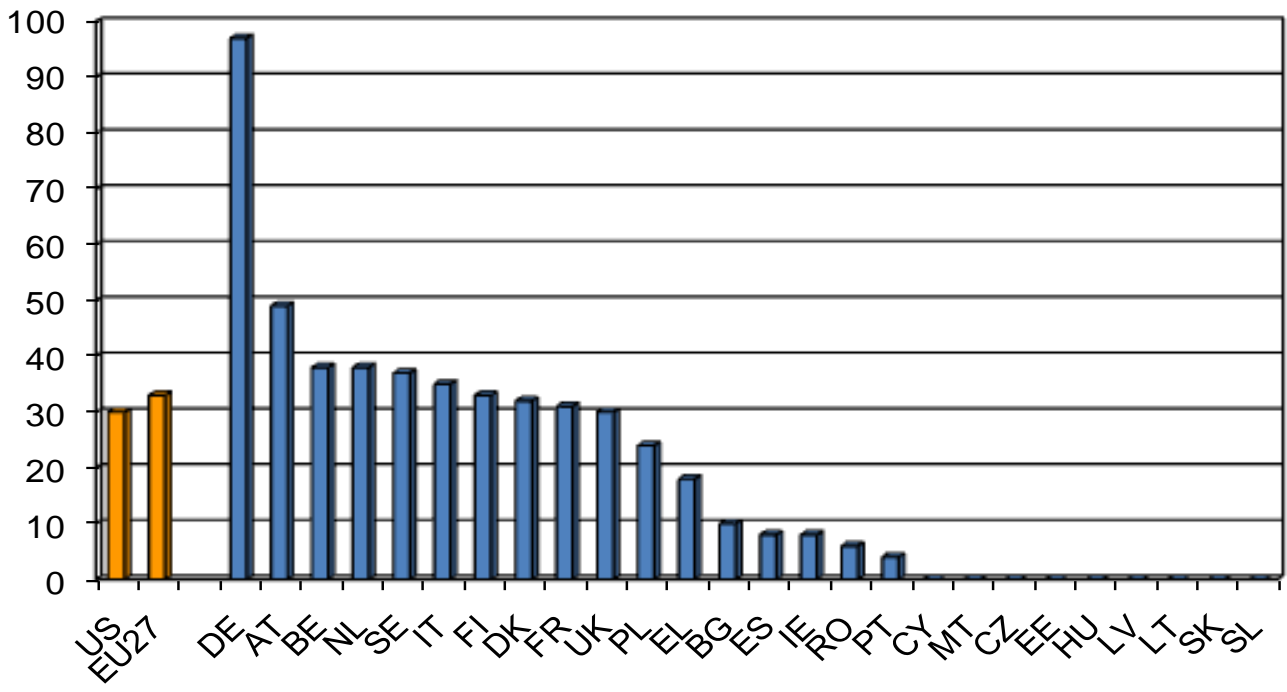
German job miracle in the Great Recession: Reduction of GDP by 4,9% but no decrease of employment and increase of unemployment

Reasons:

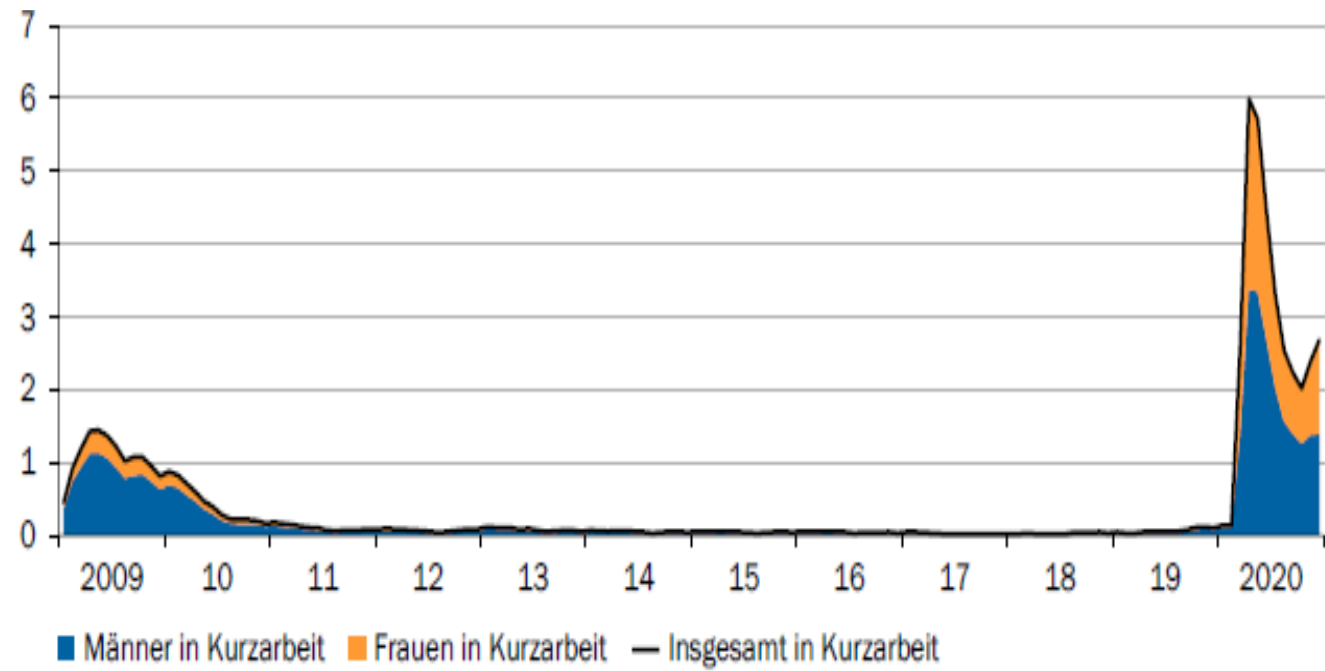
- Wage freeze in manufacturing
- Work sharing „dismissal of hours not employees“ by cut of overtime, use of credit hrs from wt-accounts, state subsidized short-time work, temporary reduction of agreed wtime
- „Training alliances“ at national, sectoral, local and company level – recruitment of 564 000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

II. 9 Responses to the great recession and the Covid-19 crisis

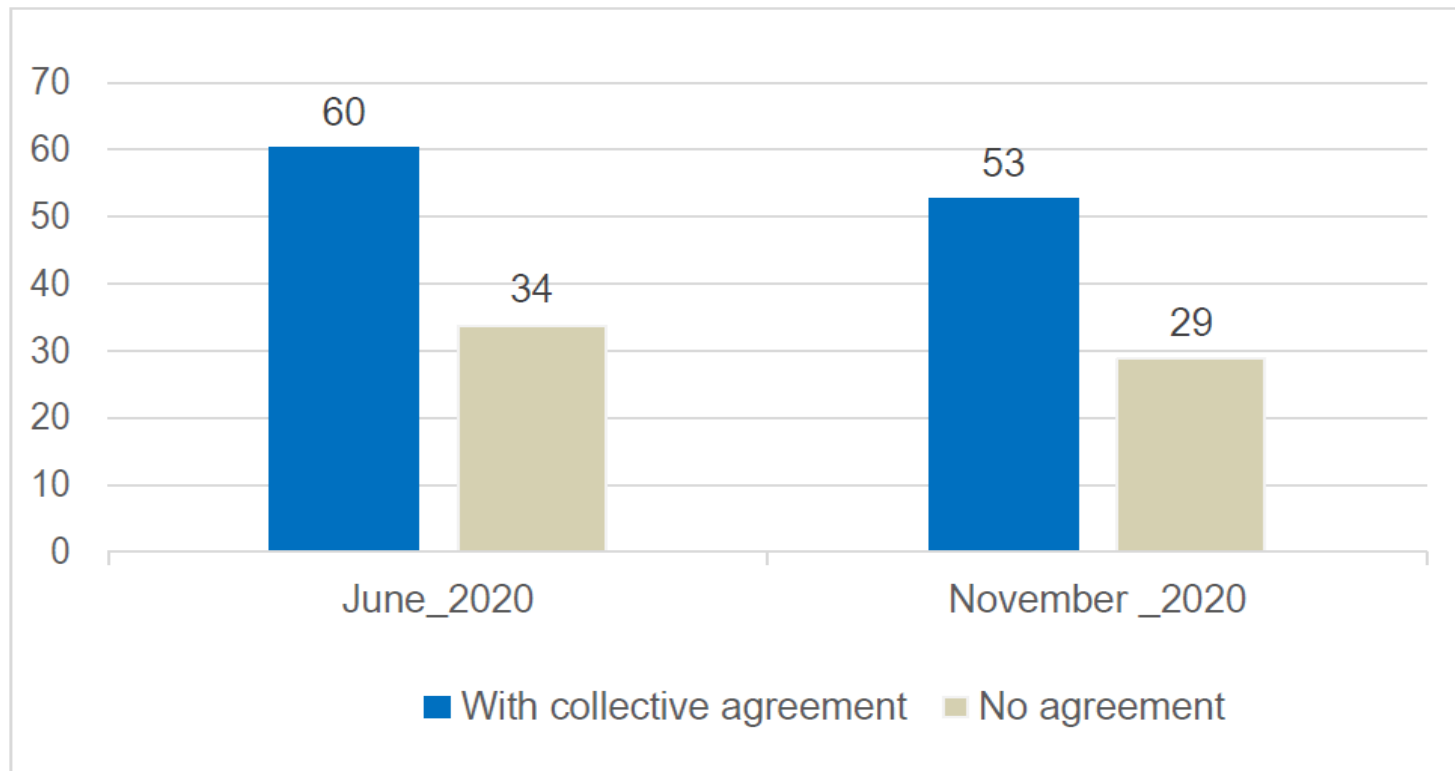
Percentage of fall in total labour input due to fall in working hours per employee in the EU and the US 2008–2009



II.10 Number of employees in short-time in million



II.11 Employer top-ups of short-time benefit as percentage of employees

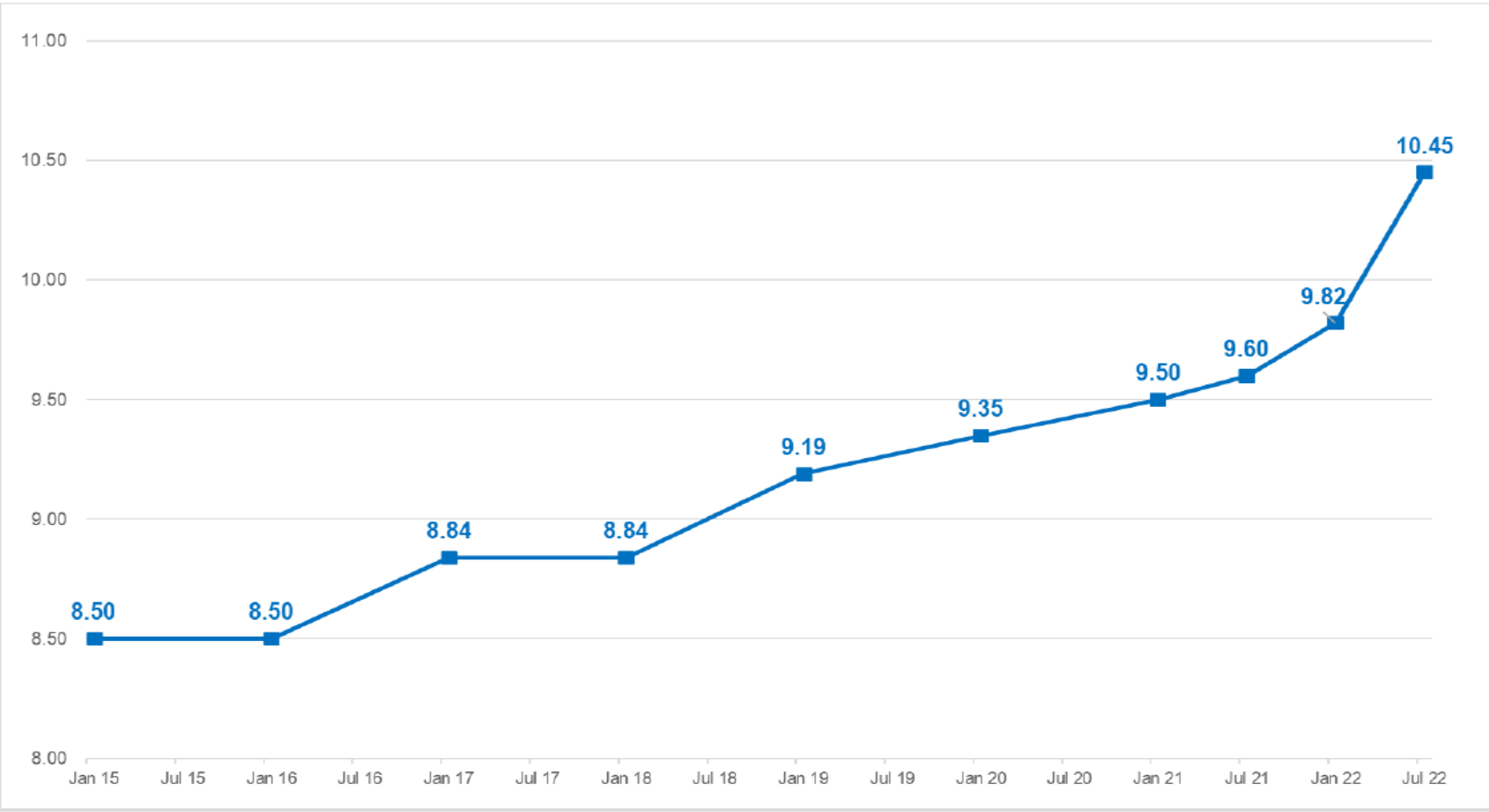


Source: HBS Erwerbstätigenbefragung (HBS Employee Survey) cited in Pusch and Seifert (2021)

II.12 Working conditions of covered and non-covered employees

	Covered	Not-covered	Difference
Average hourly wage			
Total	22.04 €	16,66 €	- 24,4%
Manufacturing	26,52 €	17,58 €	- 33,7%
Retail trade	18,75 €	15,87 €	- 15,4 %
Health, care, social work	20,98 €	16,11 €	- 23,2 %
Holiday Bonus	73 %	35 %	- 38 pp
Actual weekly working hrs	38,6 hrs	39,5 hrs	- 0,9 hrs

II. 13 The statutory Minimum Wage in Germany in €/hr



Source: Mindestlohnkommission

II.14 Collectively agreed and extended industry specific minimum wages 2021 €/hr

Branch	West	East
Waste disposal	10.25	10.25
Vocational training and education		
Education and training specialist	16.68	16.68
Education and training specialist (with bachelor's degree)	17.02	17.02
Construction*		
Unskilled	12.85	12.85
Skilled	15.70	
Roofing		
Unskilled	12.60	12.60
Skilled (journeymen)	14.10	14.10
Electrical contracting (small enterprises)	12.40	12.40
Commercial cleaning*		
Internal cleaning and upkeep	11.11	11.11
External and glass	14.45	14.45
Cash and valuables*		
Static services	12.69-15.03	12.16
Cash and valuables in transit	14.68-18.00	14.42
Scaffolding	12.20	12.20
Temporary agency employment	10.15	10.10
Painting and varnishing		
Unskilled occupations	11.10	11.10
Skilled (journeymen)	13.50	13.50
Social care services	11.60	11.20
Chimney sweeping*	13.80	13.80
Stonemasonry	12.20	12.20

Part III: The practice of German co-determination by works councils and in supervisory boards

II. 1 The legal framework of co-determination

Key features	
Works councils (WoC)	<ul style="list-style-type: none"> - Can be elected by all employees in establishments with 5+ employees - Protection of works councillors against dismissal - Release from work for their duties / more than 200 employees 1 works councillor full-time release. In companies with 10 000 employees 10 works councillors released - Employer has to finance the resources needed: office space, secretaries, travel costs, cost for training, consultants, specialists - Rights to access of information, consultation and co-determination - No right to strike – but mandatory arbitration in cases of conflict - Establishment, company agreements only on working conditions not regulated by CA's (priority of CB)
Central WoC and combine WoC	<ul style="list-style-type: none"> - Central (combine) WoC has (can be) to be formed if there are WoC's in more than one establishment (company) - They deal with matters affecting the company or the combine as a whole or two or more of its subsidiaries
Co-determination in supervisory boards	<ul style="list-style-type: none"> - In companies with (500 – 2000) more than 2000 employees: employees representatives account for (a third) half of board mandates - The chairman (always employer representative) decides in case of a stalemate - In steel and mining industry the human resource director is nominated by the employee representatives

II. II. 2 Institutional power through co-determination

- German TU declining organisational power (declining trade union density)
- But high institutional power through co-determination
 - 174,000 German works councillors were elected on a voter turnout of 80% - high trust
 - Around 8,400 WC's released from all work (backbone of German TU's)
 - 80% of works councillors union members
 - Regular training of works councillors in trade union training centers paid by employers

II. 3 Impact of WoC on working conditions

- **Woc's** elected in almost all large companies, but their share decreases with size of company
- **Practice of WoC's**
 - Act as “**Labor inspector's**” – enforce CA's and labour laws
 - Protect employees against unfair treatment
 - **Higher job security** (internal transfer instead of dismissals), **better employability** (more training in companies with WoC), **more investment in OHS**
 - **Strategic Co-Management: Discuss business strategies, investment plans, industry 4.0, HR-Policies**

Research shows: Positive impact of WoC's on the performance of the companies

High acceptance in many employers but also WoC busting a big problem

II. 4 Impact of board co-determination

- 635 larger companies with codetermination on a parity basis
- 1500 companies with one-third parity
- Most employee representatives trade union members
- TU's offer training for board members and organize strategic preparation of all sessions
- Important interaction: between supervisory board members and WoC / WoC's often members of supervisory board
- Main impacts shown by many research projects
 - Higher investment and higher profitability
 - more training
 - higher probability for Corporate Social Responsibility strategies

Conclusions

- **Erosion of the traditional autonomous CB-system without state intervention**
- **Industries with weak social partners – often outdated CA's**
- **In industries with strong social partners: modernization of CA's and innovative new agreements**
- **High institutional power through co-determination: used to enforce CA's and laws, improve working conditions but also for strategic Co-Management**

Conclusions

Plans of the new federal government to strengthen CB

- Increase of the statutory Minimum Wage to 12 €/hr
- Support of EU Minimum Wage Directive
- Introduction of a prevailing wage law for federal public contracts
- Strengthening of after-effects of CA's after outsourcing