

Session 3:

Development of Workplace Representation in Germany

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1. History and Structure of Establishment-level Codetermination

What is a Works Council?

- Elected by the entire work force (not just union members)
- Different representative bodies for the public sector and religious organizations
- Establishments in private sector with 5+ employees
- Number of council members increases along with establishment size (5-20 employees: 1 works council member, 21-50: 3, 51-100: 5)
- Establishments 200+: full-time works councillor
- Establishments 100+: Economic Committee

Works Constitution Act

- Roots in the Weimar Republic „Betriebsrätegesetz“ 1920
- Works Constitution Act, first enacted in 1952, substantial revisions in 1972 and 2001
- „Dual System“ of interest representation

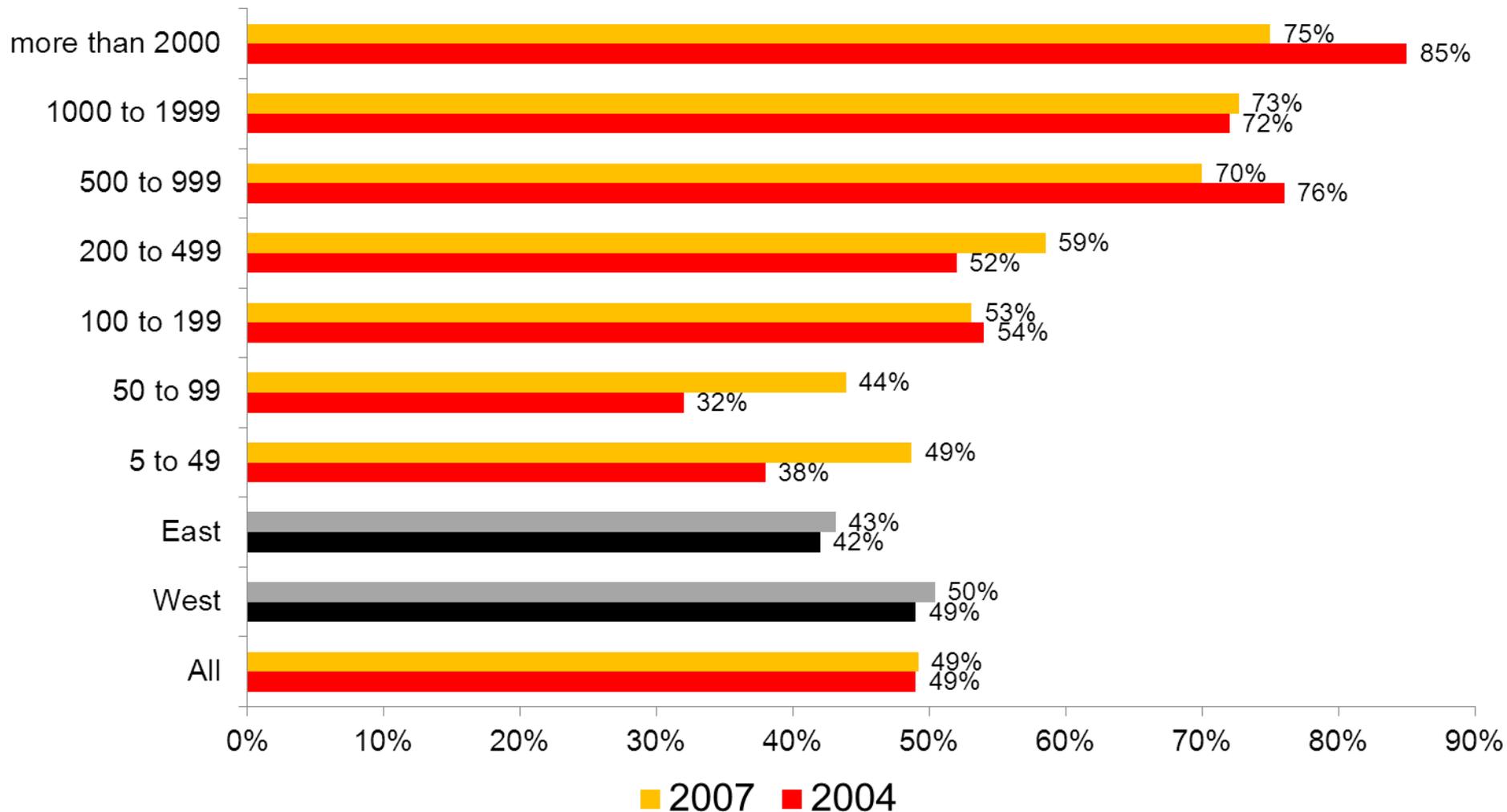
The „dual system“

| Level | Establishment | Above establishment |
|--------------------------------------|--|--|
| Key actors | Works councils, plant management | Labor unions, employers' associations, single employers |
| Major law applicable | Works Constitution Act | Collective Bargaining Act, Section 9 III German Constitution |
| Major key tasks | Regulation at the workplace level, applying content of collective agreements | Negotiating collective agreements on wages, hours and working conditions |
| Dominant mode of conflict resolution | Arbitration panels, withdrawal from cooperation, certain pressure tactics | Strike, lock-outs, go-slow etc. |
| General principles | Integrative bargaining: cooperation, „peace obligation“ | Distributional bargaining |

Share of WCs saying that they actively recruit union members

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- Hierarchy of participation rights: Information, Consultation, Veto- and Codetermination rights
- Areas for participation: social issues, work environment, individual employment relationship, business strategy

Example 1: Veto-Rights in the Case of Dismissal

1. Employer intends to dismiss employee
2. Inform Works Council: Who, when, for which reason?
3. Time period for deliberation (1 week)

What might happen?

Option 1: Employer **does not** inform/consult WC: dismissal violates the law

Option 2: Employer **does** inform/consult, WC remains **silent**: employer can proceed with dismissal

Option 3: Employer **does** inform/consult, WC **agrees**: see Version 2

Option 4: Employer **does** inform/consult, WC **disagrees**: Employer has to refer to the local labor court to replace WC's veto

Codetermination rights

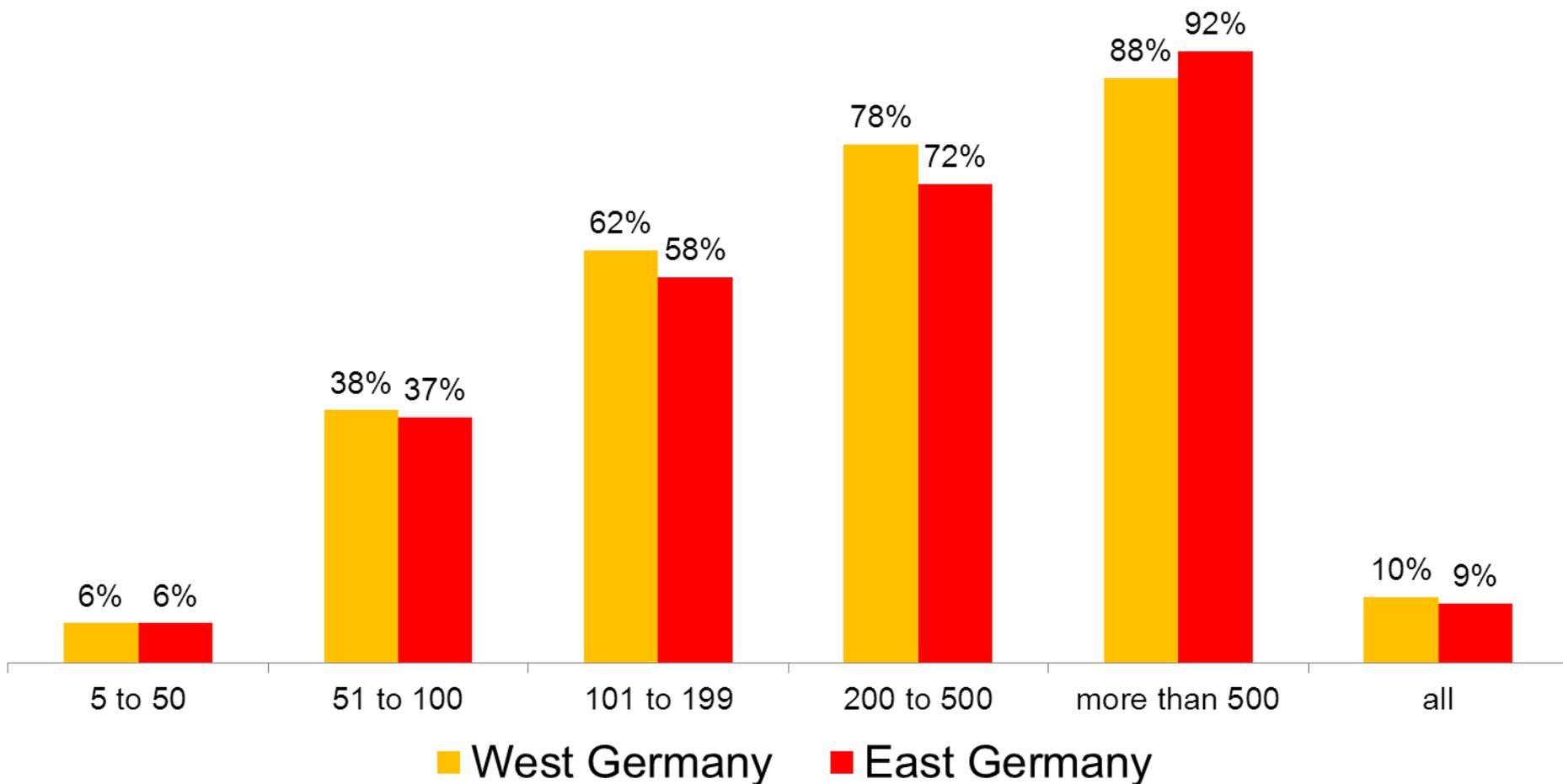
- distribution of working time
- extension of regular working time
- principles for workers taking vacation time
- surveillance
- occupational safety and health
- company services: cafeteria, sport facilities, housing, childcare etc.
- general principles of remuneration, standards for performance based pay
- group work

How do Codetermination Rights Work in Practice

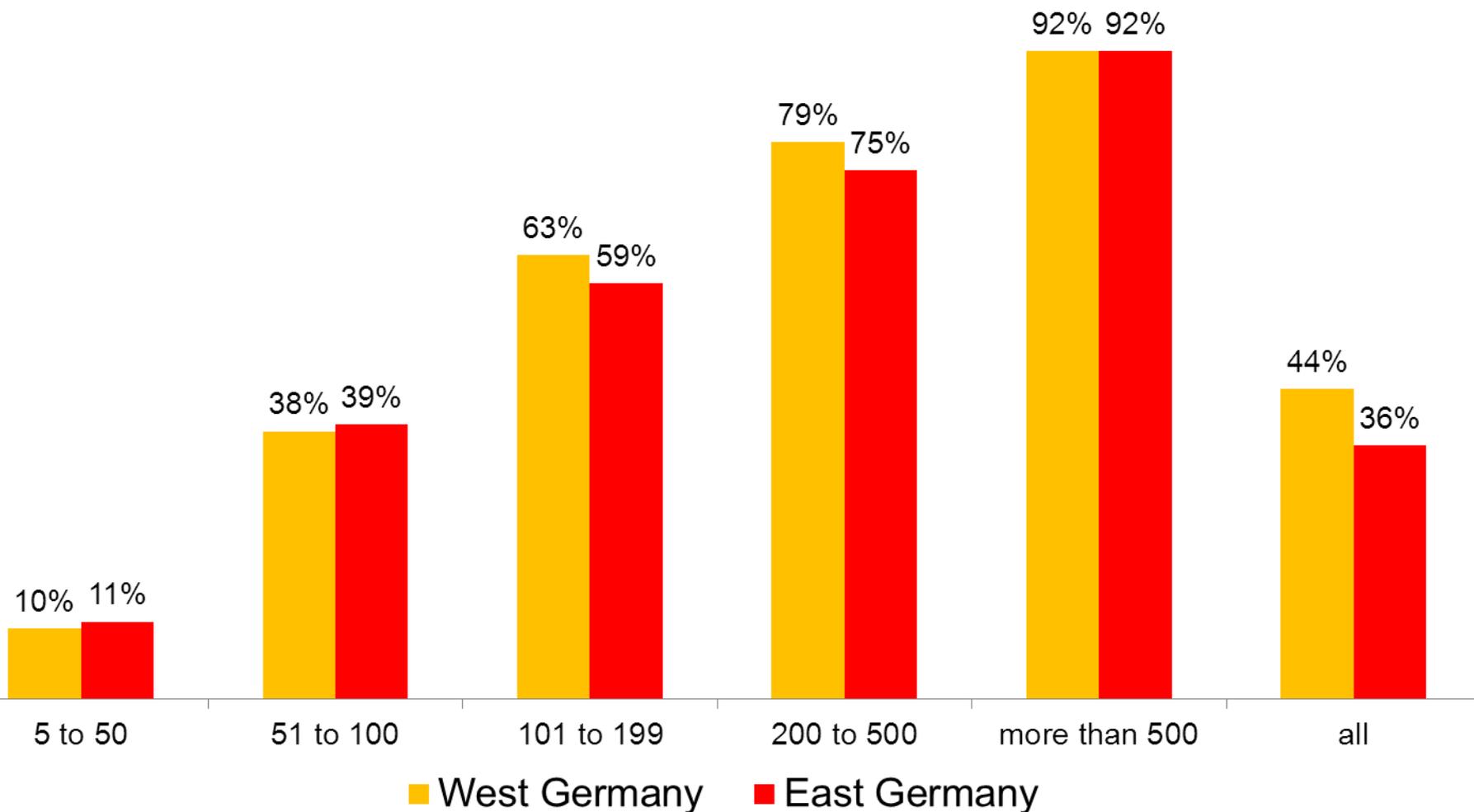
- Issue subject to codetermination
- Management or works council initiates negotiations
- Outcome 1: Management and WC agree on joint policy and conclude a **works agreement**.
- Outcome 2: Management and WC disagree and decide not to pursue issue any longer
- Outcome 3: Also disagreement but one party refers issue to **binding arbitration** (*Einigungsstelle*). The arbitration panel (equal number of members from both sides and neutral chairperson) issues a binding decision (**works agreement**).

2. Works Councils: Trends and Developments

Establishments with 5 and more employees: Share of establishments with works council



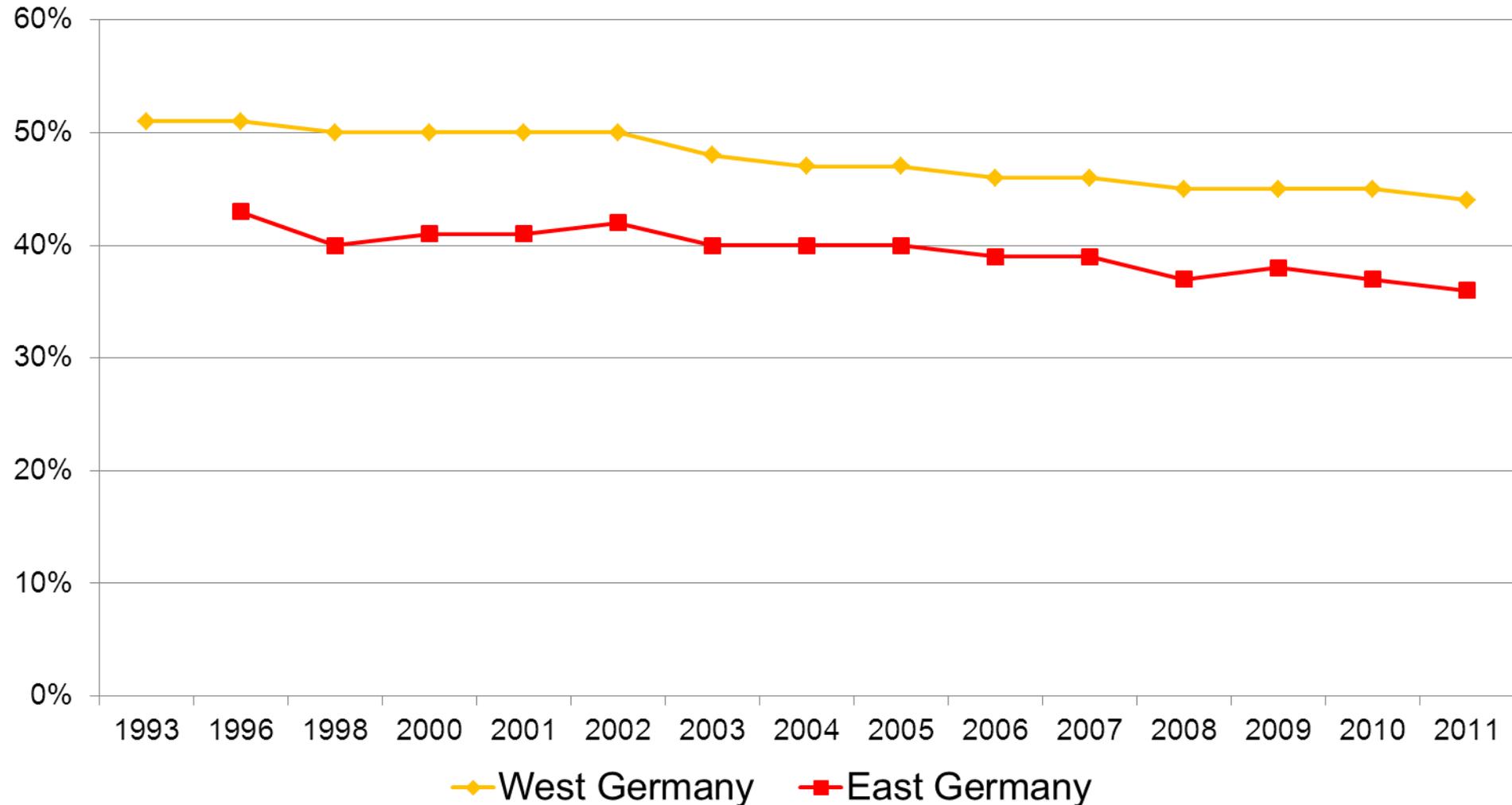
Establishments with 5 and more employees: Share of employees working in an establishment with WC



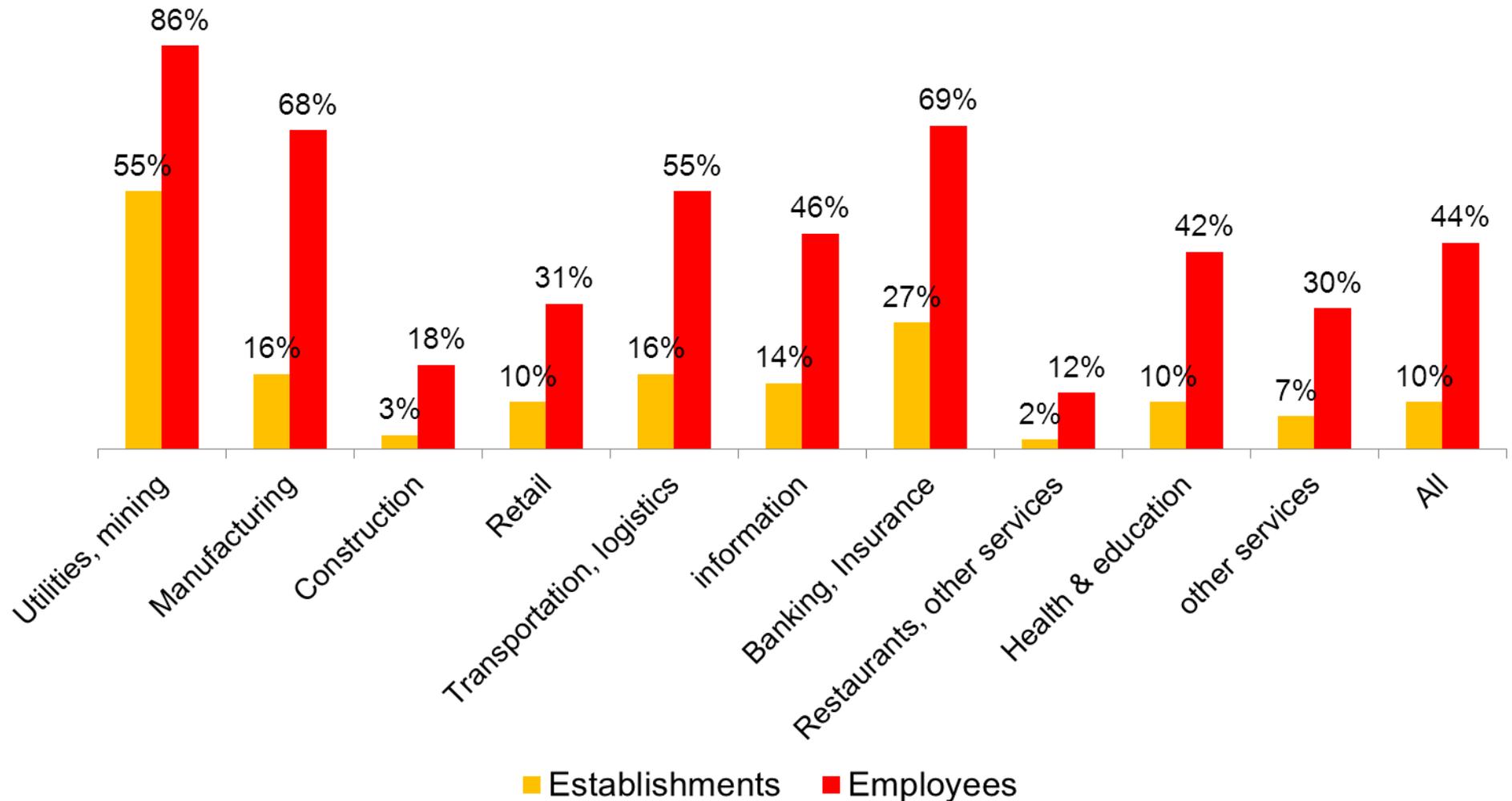
Share of employees working in an establishment with a Works Council (1993-2011)

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Establishments/employees with works councils (2011, West Germany)



3. Economic Effects of Co-Determination at the Establishment Level

Productivity

- More recent studies predominantly find positive associations between productivity and works councils; some studies find effects to be not significant
(positive effects: Hübler/Jirjahn 2003, Wagner 2008, Hübler 2003, Frick 2002, Frick/Möller 2003, Müller 2009, effects not significant: Schank/Schnabel/Wagner 2004; Addison/Bellmann/Schnabel/Wagner 2004)
- Factors moderating the effects of works councils: positive effects are stronger when: establishment is covered by a multi-employer collective agreement, large establishment, no profit sharing schemes for management

Wages

- Only few studies do analyze effects on wages: two of these studies find positive effects of WC on wages, one does not
- in the literature there is indication, that WCs do contribute reducing the gender pay gap

Profits

- subjective estimates on company's profits: studies tend to find a negative influence of WCs
(Addison/Schnabel/Wagner 2001, Dilger 2002 und 2006, Renaud 2008)
- hard profit indicators: studies tend to find a positive influence of WCs
(Zwick 2007, Mohrenweise/Zwick 2009)

Innovation

- no significant association between WCs and innovation at the level of production technology/organization and companies' investment behaviour
- there is, however, evidence that WC's positively influence certain types of product innovation

Employment

- WC's do reduce workforce fluctuation

(Kraft 2006, Frick 2006, Addison/Wagner/Schnabel 2001, Frick/Möller 2003)

- WC's improve companies ability to fill vacant positions with qualified applicants

(Backes-Gellner/Tuar 2009)

- Development of employment level: contradictory results

Working time

- Usage of overtime work: no significant influence
- but: positive association between WCs and the existence of working time accounts

(Dilger 2002, Hübler/Jirjahn 2003, Ellguth/Promberger 2004)

4. To wrap it up

- Rather modest decline of Works Council coverage
- However, small firm sector only weakly covered
- Close link between WC and unions
- WCs mostly pursue „integrative bargaining“ in contrast to „distributive bargaining“
- Research has given little reason to assume, that WCs are bad for business