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## **WSI-Survey examines decentralisation of collective bargaining in 1999/2000**

**According to the recently published results of the WSI Works Council Survey about 22% of the establishments have taken the opportunity to diverge from collectively agreed provisions by using opening-clauses. In addition to that about 15% of the establishments contravened more or less often valid agreements. A majority of nearly three-quarters of the works councillors considered that the overall trend towards a decentralisation of collective bargaining has either negative or ambiguous effects.**

In the 1990s, the German system of collective bargaining saw a continued process of decentralisation and flexibilisation. This process has a "regulated" and an "unregulated" dimension. The regulated dimension has found expression in the widespread introduction of "opening clauses" into branch-level agreements, which under certain conditions allow companies to diverge from collectively agreed standards with the support of both trade unions and employers' associations. In addition to that, there has been a second dimension of decentralisation, which might be called "unregulated" or even "unlawful" decentralisation. The latter refers to companies which more or less openly contravene collective agreements.

In February 2001, the Institute for Economic and Social Research within the Hans Böckler Foundation (Wirtschafts- und Sozialwissenschaftliches Institut in der Hans-Böckler-Stiftung, WSI) presented the results of its recent *Works Council Survey 1999/2000* which gives a representative overview on industrial relations at establishment level. A special evaluation of the WSI Survey data provides current information on the use of opening-clauses and the offence against collective agreements in Germany (Betriebliche Interessenvertretung, Entgelt und Tarifpolitik, Reinhard Bispinck, in WSI-Mitteilungen Vol. 54, No. 2 (2001)). Moreover, it gives an overview on the works councillors' evaluation of decentralisation of collective bargaining.

### **The use of opening-clauses at establishment level**

Although the introduction of opening-clause into sectoral collective agreements became widespread in almost all important sectors, little data exists on the actual use of these clauses at establishment-level so far. There is some data, for example, from the chemical sector which suggested a relatively low take-up of the existing opening-clauses on working time and collectively agreed pay.

The WSI Works Council Survey 1999/2000 provides, for the first time, representative data on the overall use of opening-clauses in Germany (see table 1). According to that data about three quarters of the establishments do not use any opening-clauses in order to diverge from collective agreements. While only 22% of the works councils declared that their establishments are currently using opening-clauses, the number is significantly higher in east Germany (30%) than in the West (20%).

The most widespread used opening-clause are the ones which give the possibility to extend working time above the collectively agreed rate (44% of the establishments which use opening-clauses), followed by opening-clauses which allow a reduction of working time below the collectively agreed rate with no compensation in pay for a limited period of time (25%). About one fifth of the establishments are also using the opportunity of "entrance wages" for special groups of newly hired employees such as job beginners or long-term unemployed. While

opening-clauses on pay which allow for a reduction of either collectively agreed basic pay or annual bonuses are of less importance in west Germany, they still play an important role in the East. The same is true for the use of so-called "hardship-clauses" which under certain conditions allow to diverge from collectively agreed provisions in order to avoid a bankruptcy of the establishment.

**Table 1. The use of opening-causes at establishment level**

	<b>Germany</b>	<b>West Germany</b>	<b>East Germany</b>
Establishments which do not use opening-clauses	75%	77%	67%
Establishments which use opening-clauses	22%	20%	30%
<b>Establishments use opening-clauses in the following fields (in percentage of all establishments which use opening clauses) :</b>			
Working time extension	44%	48%	28%
Limited working time reduction	25%	27%	19%
"Entrance wages" for newly-hired employees	20%	21%	16%
Reduction or postponement of annual bonuses	14%	11%	27%
Postponement of collectively agreed pay increases	12%	10%	21%
General "hardship clauses"	8%	3%	28%
Reduction of collectively agreed pay	6%	4%	11%
Reduction or postponement of holiday pay	6%	2%	22%

Source: WSI Works Council Survey 1999/2000

### **Offences against collective agreements at establishment-level.**

Besides the legal way to diverge from collective agreements through the use of opening-clauses, there is also an illegal way where establishments simply breach valid collective agreements. According to the WSI Works Council Survey about 15% of the works councils declared that the establishment contravene either sometimes (11%) or even often (4%) collective agreements (see table 2). The number of offences is particularly high in east Germany where more than a quarter of the establishments breach valid agreements. The highest number of offences can be found in the area of collectively agreed basic pay (58%), followed by the area of working time policy (40%). Since it might sometimes be difficult for works councils to declare that their establishment contravenes collective agreements, there

might be a number of unknown cases which in total would indicate an even higher number of offences.

**Table 2. Offences against collective agreements**

	Germany	West Germany	East Germany
Establishments <i>do not</i> contravene collective agreements	85%	87%	74%
Establishments <i>sometimes</i> contravene collective agreements	11%	9%	20%
Establishments <i>often</i> contravene collective agreements	4%	3%	6%
<b>Establishments contravene against collective agreements in the following fields (in percentage of all establishments which contravene against collective agreements) :</b>			
Basic pay	58%	61%	50%
Working time	40%	44%	27%
Additional bonuses	27%	25%	30%
Annual bonuses	25%	21%	37%

Source: WSI Works Council Survey 1999/2000

### **Evaluation of decentralisation of collective bargaining by works councillors**

Asked for their evaluation of decentralisation of collective bargaining nearly three-quarters of German works councils considered that it has either negative or ambiguous effects (see table 3). Only 10% of the works councils were in favour of decentralisation while about 13% said that the effects of decentralisation are "difficult to evaluate". The results of the recent WSI Works Council Survey 1999/2000 confirm the results of an earlier survey made in 1997/98 and, therewith, supply evidence for a persistently strong scepticism of decentralisation of collective bargaining among works councillors.

**Table 3. Evaluation of decentralisation of collective bargaining by works councils**

Evaluation	1999/2000	1997/98
Positive	10%	12%
Ambiguous	33%	40%
Negative	39%	37%
Difficult to evaluate	13%	12%

Source: WSI Works Council Survey 1997/98 and 1999/2000

The latter has been further proved by the fact that nearly three quarters of the works councils think that decentralisation of collective bargaining "strengthens the position of the employers" (see table 4). More than half of the works councils criticised the fact that decentralisation "leads to different work and pay conditions for employees covered by the same collective agreement" while only a quarter said that it "takes better into account the different conditions at establishment level". About 19% of the works councillors questioned in the survey, however, welcomed the decentralisation of collective bargaining because they see it as an opportunity to increase their influence and to achieve regulations which better fit the specific needs of the company. In contrast to that 30% said explicitly that the decentralisation does not give the works councils an effective influence".

**Table 4. Results of decentralisation of collective bargaining in the view of works councils**

<b>The decentralisation of collective bargaining</b>	
... strengthens the position of the employers	72%
... leads to different work and pay conditions for employees covered by the same collective agreement	54%
... does not give the works councils an effective influence	30%
... takes better into account the different conditions at establishment level	25%
... improves the opportunities for works councils to influence work and pay conditions	19%
... others	6%

Source: WSI Works Council Survey 1999/2000

## **Commentary**

The findings of the recent WSI Works Council Survey show that there is a significant tendency towards decentralisation of collective bargaining in Germany which is supported by the widespread use of opening-clauses at establishment-level as well as by the significant number of offences against valid collective agreements. On the other hand the WSI Survey also made clear that the overwhelming majority of the establishments still use neither opening-clauses nor contravene collective agreements. The latter made clear that there is still a relatively high degree of stability within the German system of collective bargaining.

For the majority of the works councils, however, the existing tendencies towards decentralisation of collective bargaining represent more a threat than an opportunity. Against the present background of persistently high unemployment and increased competition, they feel that the decentralisation of collective bargaining has diminished their bargaining power at company level. As other, more qualitative studies, indicate, branch-level collective agreements have a certain "relief function" (*Entlastungsfunktion*) which makes it easier for works councillors to reject employers' demands for reduction of social and employment standards. The decentralisation of collective bargaining, therefore, also reflects a shift in power relations between employers on the one hand and works councils and trade unions on the other hand.

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