

# The WSI Surveys of Works and Staff Councils – an Overview

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The most recent WSI survey again confirms the persisting pressure of problems in companies and public sector establishments, a pressure that the interest-representing bodies at company level respond to in varying ways. Due to a lack of implementation time as well as a lack of workability (at least to date), the Works Constitution Act that was amended in 2001 has done little (up to the present time) to help solve these problems in companies in the private sector. Nevertheless, the findings of the survey also once again point to an often underestimated “culture” of codetermination involving the relevant parties at company level. Despite all the difficulties associated with codetermination, this process can, on the whole, be described as intense and vibrant; at the same time, the process is at risk due to various erosion trends at company and supra-company level.

## 1

### Introduction

At the turn of 1997/1998, the WSI conducted its first systematic nationwide survey of company-level interest-representing bodies, and the findings were published in the journal “WSI-Mitteilungen” (WSI Projektgruppe 1998). A second survey took place at the turn of 1999/2000 and a third in the summer of 2002; further surveys are scheduled at two-year intervals.<sup>1</sup> The objective is to create an additional source of microeconomic information of relevance for political consulting and social science research. The value of this information can be enhanced by supplementing and linking it with other microeconomic data sets on working life, in particular as supplied by the annual IAB survey of management personnel in companies (IAB company panel).<sup>2</sup>

This article summarises the design and findings of the third survey. It reports on the methodology of the survey and the returns of completed questionnaires, which underline the persisting willingness among the surveyed works and staff councils from the various sectors, regions and company sizes to provide information. Above all, this article profiles the substantive findings that provide a detailed overview of the situation at company level and an assessment of this situation; more in-depth information is presented in some of the other articles in this special-topic issue. For all the differences that exist in specific areas compared to the 1997/1998 and 1999/2000 surveys, the overall findings indicate persisting

pressure of problems on the workforce and the interest-representing bodies at company level.

The extent and nature of the various problems suggest ongoing deficits when it comes to promoting employee demands, although the 2001 amendment to the Works Constitution Act has given the works councils greater powers in some areas.<sup>3</sup> These deficits – which forge a link between numerous specific problem areas – are one of the fundamental findings of the survey. Although the nature of the problems differs in some areas between the private and public sector, between east and west Germany, and between individual sectors and administrative fields, the structural similarities (like those found in previous surveys) lead to the conclusion that the works and staff councils need (even) greater power to implement their demands and more representation powers if they are to tackle these problems more effectively. This is at least one argument for an amendment to the staff representation laws – following the fairly recent reform of the Works Constitution Act. The findings of the survey suggest that, in addition to being given greater *direct* powers of representation on the basis of the codetermination laws, the councils would also benefit from greater *indirect* powers of representation in the form of more support for the works and staff councils through flanking framework collective agreements and other legal provisions.

Despite the problems, the findings also show that the works constitution system generally functions more or less satisfactorily – in other words, that it is accepted and used by both parties at company level and

that it at least in part does justice to new developments at this level. In this respect, the 2002 findings conform with those of the earlier surveys. The same applies to the impression – based on the findings – that there can (still) be no talk of a dramatic reduction in collective agreement coverage,

<sup>1</sup> Dispatch of questionnaires, recording of data in the returns, and basic computation of the results were effected in cooperation with the experienced Institut für Wirtschafts- und Sozialforschung research institute in Kerpen headed by Dr. Werner Friedrich.

<sup>2</sup> The IAB company panel surveys the management in all companies and public sector establishments irrespective of the existence of an interest representation body. It therefore plays a two-fold role in combination with the WSI surveys, which cover only companies and establishments with a works or staff council: Thanks to its wide-ranging survey universe, the IAB company panel provides reference data for the WSI surveys – such as the total number of representation bodies in Germany. And – within certain limits – the results of the panel can be linked to those of the WSI survey. One initial example is the project report by Ahlers/WSI and Ellguth/IAB (2003) on the possible influence of works councils on the personnel policy of companies in the private sector.

<sup>3</sup> At the time of the survey in summer 2002, just a few months after the reforms, it was not possible to seriously assess the extent to which these improvements can be utilised; such an assessment will be the task of future surveys after the new provisions have been in place for a sufficient period of time.

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of permeable collectively agreed standards, or of a “hidden” process of de facto decollectivisation of bargaining policy to company level. However, the interest representation bodies see the last-named development – which is demanded by the other side but which is still not widespread – as being a greater risk than in previous surveys.

On the whole, it is fair to say that the results of the surveys to date are representative of the national situation as well as of individual regions (west and east Germany), sectors and company size categories. And the findings provide valuable information on economic processes and problems in companies, the representation activities of works and staff councils, and their relationship vis-à-vis workforce, employer, collective agreement and trade union. The results of the survey not only confirm the general day-to-day relevance and acceptance of industrial relations by the various players; they also pinpoint weaknesses in these relations at both company and supra-company level.

## 2

### Design and methodology of the WSI survey

During the course of summer 2002, the WSI – as mentioned at the outset – surveyed works and staff councils in all economic sectors and regions of Germany for the third time. More precisely: for the third time, a written questionnaire with more or less unchanged core questions was sent by standard mail to interest-representing bodies at company level with the aim of recording the framework for their activities and the challenges with which they are faced.<sup>4</sup> This so-called main survey is to be distinguished from the special surveys of works and staff councils – as well as other respondents – conducted by the WSI that are confined to more narrowly defined topics.<sup>5</sup>

The aim was to send the questionnaire to companies and public sector establishment with at least 20 employees and a works or staff council. As in some cases, however, the address data used provided only insufficient or outdated information on size of company and the presence of an interest-representing body, questionnaires were unintentionally also sent to smaller

**Table 1: Case numbers<sup>1)</sup> in the WSI survey and distribution by region**

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
<b>Works councils overall</b>	1,931	100.0	1,390	100.0	1,730	100.0
- west Germany	1,694	87.7	1,142	82.2	1,418	82.0
- east Germany	209	10.8	248	17.8	312	18.0
- no information on region	28	1.5	0	0	0	0
<b>Staff councils overall</b>	1,025	100.0	1,524	100.0	1,336	100.0
- west Germany	886	86.4	1,313	86.2	1,056	79.0
- east Germany	139	13.6	211	13.8	280	21.0

1) Number of evaluated questionnaires

Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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**Table 2: Distribution of surveyed works councils/companies by company size (based on no. of employees)**

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
Up to 50 employees	362	18.7	254	18.3	263	15.2
51 to 100 employees	417	21.6	240	17.3	295	17.1
101 to 200 employees	349	18.1	206	14.8	325	18.8
201 to 500 employees	395	20.5	295	21.2	541	31.3
Over 500 employees	381	19.7	376	27.1	306	17.7
No information on size	27	1.4	19	1.4	0	0.0
<b>Total</b>	1,931	100.0	1,390	100.0	1,730	100.0

Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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companies and establishments, in particular companies without representation bodies. However, the questionnaire returns are only from companies and public sector organizations with an interest-representation body as defined in the Works Constitution Act (BetrVG) and the Federal Staff Representation Act (BPersVG). According to the last wave of the IAB company panel – a representative annual survey of the *employers'* side that also records the existence of a works or staff council (Ellguth 2003) – this target group accounts for 12 % of all private sector companies and around 75 % of all establishments in the public sector. In terms of the number of employees, however, the “target area” in the private sector is considerably larger: the aforementioned 12 % of companies with works councils employ around 49 % of all employees in companies that qualify for the existence of a works council (in other words, companies with 5 and more employees); the aforementioned 75 % of establishments account for around 95 % of all employees in public sector establishments that qualify for the existence of a staff council.

As was the case with the earlier WSI surveys, there were no major differences in the survey structure of works councils on the one hand and staff councils on the other in the 2002 survey. To promote the success of further special-topic surveys planned for the future and to take some of the burden off the respondents, the 2002 questionnaire contained a far lower number of “ad hoc” questions on current issues.

One exception were the questions in the summer 2002 questionnaire for the works councils on the first works council elections in line with the reformed Works Constitution Act of spring 2002. These questions were included to allow an assessment of the new simplified and accelerated election process – whereas other experiences with the new Act will be reserved for future special-topic surveys after it has been fully implemented and in place for a sufficient period of time.

At any rate, the regular works council elections that took place in spring 2002 on the basis of the new Works Constitution Act prompted us to put back the date of the WSI survey from the turn of 2001/2002 (as originally planned) until the early summer of 2002. The questions in the questionnaire relating to a particular point in time should therefore be seen in the context of mid-

4 For an overview of the second main survey in 1999/2000, see Schäfer 2001 and the other articles on the survey in the core topic 2/2001 in the “WSI-Mitteilungen”; for information on the first main survey in 1997/1998, see the “WSI-Projektgruppe” 1998.

5 The first one of which was the 1998 survey on the reform of the so-called 350 DM jobs and their effects on companies, followed by the 2000 survey on the work of interest representing bodies in IT and software companies, and the 2002 survey on employment termination policy at company level. For more details, see ISG/WSI 1999, Ahlers/Trautwein-Kalms 2002, Bielski et al. 2003, Pfarr 2003.

**Table 3: Distribution of surveyed works councils/companies by sector**

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
Raw material processing	236	12.2	168	12.1	377	21.8
Capital goods	536	27.8	353	25.4	278	16.4
Consumer goods	310	16.1	180	12.9	179	10.3
Construction	99	5.1	94	6.8	61	3.5
Trade	313	16.2	114	8.2	149	8.6
Banking	148	7.7	80	5.8	66	3.8
Insurance	74	3.8	30	2.2	37	2.1
Transport, communication	87	4.5	176	12.7	112	6.5
- incl. Post, Telekom companies	41	2.1	48	3.5	26	1.5
- including Bahn rail company	15	0.8	83	6.0	25	1.4
Other services	95	4.9	159	11.4	310	18.1
- incl. software and DP	-	-	37	2.7	58	3.4
Other	21	1.1	27	1.9	71	4.1
No information on sector	12	0.6	9	0.6	94	5.5
<b>Total</b>	<b>1,931</b>	<b>100.0</b>	<b>1,390</b>	<b>100.0</b>	<b>1,730</b>	<b>100.0</b>

Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
IG BAU (construction)	129	6.7	107	7.7	77	4.5
Verdi (public sector + services)	755	39.1	473	34.0	678	39.2
IGM (metal)	822	42.6	548	39.4	608	35.1
Transnet (transport, telecom)	15	0.7	83	6.0	25	1.4
NGG (food, hotels, luxury goods)	118	6.1	70	5.0	80	4.6
Other	92	4.8	109	7.8	261	15.1
<b>Total</b>	<b>1,931</b>	<b>100.0</b>	<b>1,390</b>	<b>100.0</b>	<b>1,730</b>	<b>100.0</b>

Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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2002; questions relating to a particular period of time should be seen in the context of the period from the beginning of 2000 – the time of the second main survey – to mid-2002. This means that the macroeconomic time frame extends from 2000, when growth trends were still visible, through 2001, when we saw the first signs of a downturn. This “heterogeneous” economic backdrop makes it more difficult to interpret the findings than would have been the case if the “observation window” had been characterised by a clear or uniform economic trend.

The addresses included in the survey (“To the works council/staff council of the company/public sector establishment ...”) were selected from the WSI address file from previous surveys, a commercial list of company addresses, lists of public authority addresses to which we had access, and address lists from the trade union sector. The latter addresses were used to reduce the high drop-out rate from the commercially available company addresses, as the latter did not indicate the existence of a

works council in the company, and as the lack of an interest representation body that could be surveyed rendered the mailed questionnaires meaningless in the earlier surveys in nine out of ten cases. As mentioned earlier, the latest figures from the IAB company panel indicate that – according to the employers – an interest representation body exists in “only” 12 % of all German companies with five or more employees that legally qualify for the existence of a works council. The use of the trade union addresses had the desired effect and helped to increase the percentage of returned questionnaires in some areas despite the decline in overall figures. As in the preceding surveys, the return rate was positively impacted by the standard reminders sent to works and staff councils who had not answered after a number of weeks to remind them to return a completed questionnaire.

The number of returned completed questionnaires in the third main survey is considerably higher than in the second survey in the case of the works councils; the figure for the staff councils is slightly lower

than in the last survey but more or less on the same level as in 1997/1998 or 1999/2000 (Table 1). The effective return rate – in other words, the percentage of mailed and returned questionnaires – is 13.8 % for the works councils and 16.9 % for the staff councils. Quantification of the return rate from companies whose addresses were taken from the commercial address file was based on the finding of the IAB company panel that around 50% of companies with 20 or more employees do not have a works council – meaning that half of the mailed questionnaires practically came to a “dead end”. In reality, a higher percentage of the questionnaires sent to these companies were probably lost, as the list of addresses also included companies with fewer than 20 employees in which the probability of the existence of a works council was considerably lower than 50 %. This means that the de facto return rate for the works councils is correspondingly higher.

The return rate for completed questionnaires depends on various factors, such as the regional location of the company or public sector establishment in west and east Germany, the size of company, the economic and employment sector, and inclusion in an area covered by the trade union, as listed in Tables 1 to 8.

The distribution of returns from works councils and staff councils by regional location or origin reflects the actual situation in Germany more closely (Table 1) due to an increase in the percentage of returns from east Germany (particularly from the staff councils). When considering the distribution of returns from works councils based on size of company, it is notable that “medium-sized” companies with between 101 and 500 employees are far more strongly represented in the third main survey than in the other surveys (Table 2). In contrast, the return rate from staff councils in public sector establishments with up to 50 employees is far higher, mainly at the expense of bigger establishments with over 500 employees (Table 5).

The figures for distribution of works council returns by economic sector (Table 3) also show shifts in emphasis over time. The increased percentages for raw materials processing and the service sectors are particularly noticeable, as are the decreased percentages for the capital goods industry. The stronger showing of the service sector is probably due to the use of the address material obtained by the WSI dur-

ing the special-topic survey of companies in the IT and software development sectors in the *DILA project* (Ahlers/Trautwein-Kalms 2002). A further conspicuous development is the substantial increase in the percentage of works councils who gave no information on the sector in which their company is active. Overall, however, the relatively broadly based distribution among a high number of economic sectors permits frequent sector-specific result evaluation – as is used by some of the other articles in this journal, provided that the number of cases does not fall below a specific minimum level. It was also possible to conduct evaluation based on the criterion of “craft and trades company” that was included in the questionnaire.

The same applies to the staff councils, where the distribution of returned questionnaires also covered a wide range of administrative and service segments in the public sector (*Table 6*). Moreover, the previously very strong emphasis on the general administrative sector has decreased in favour of other areas in the third main survey; the percentage of returns from the general administrative sector (35.8 %) almost corresponds to this sector’s share of all employees in the public service sector. The figures for the staff councils also show a marked increase in the number of councils who provided no information on the area in which their organization is active.

In the case of both the works councils and the staff councils, the distribution of questionnaire returns by trade union segment is influenced by the effects of the 2001 merger of several single trade unions to form the ver.di union, and this resulted in a drastic reduction in the number of trade union segments. In *Tables 4* and *7*, the new unionisation breakdown has also been extrapolated back to that used in earlier surveys to permit easier comparison. In the most recent survey in 2002, the ver.di segment is dominant among works and staff councils, reflecting its high membership. Despite the dominance of ver.di, however, the percentage of staff council returns from the area covered by this trade union is markedly lower than in the first WSI survey; it therefore corresponds more closely to the de facto unionisation levels in the public sector, which is characterised to a far greater extent than the private sector by non-DGB trade unions and professional organisations. The significance of the latter is listed in *Table 7* under “Other trade

**Table 5: Distribution of surveyed staff councils/establishments by size of establishment** (based on no. of employees)

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
Up to 50 employees	155	15.1	210	13.8	282	21.1
51 to 100 employees	170	16.6	274	18.0	232	17.4
101 to 200 employees	162	15.8	283	18.6	217	16.2
201 to 500 employees	250	24.4	362	23.8	344	25.7
Over 500 employees	268	26.1	336	22.0	261	19.5
No information on size	20	2.0	59	3.9	–	–
<b>Total</b>	<b>1,025</b>	<b>100.0</b>	<b>1,524</b>	<b>100.0</b>	<b>1,336</b>	<b>100.0</b>

Source: WSI Works and Staff Council Survey (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Survey).

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**Table 6: Distribution of staff councils/establishments by administrative and service segment**

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
General administration	577	56.3	794	52.1	500	37.4
Police	41	4.0	21	1.4	99	7.4
Other public safety <sup>1)</sup>	38	3.7	41	2.7	97	7.3
Justice	79	7.7	111	7.3	118	8.8
Schools	102	10.0	164	10.8	69	5.2
Other education, science, culture	28	2.7	94	6.2	69	5.2
Social welfare	56	5.5	77	5.1	77	5.8
Health	47	4.6	63	4.1	115	8.6
Energy, water supply	15	1.5	7	0.5	17	1.3
Transport and communication	29	2.8	29	1.9	8	2.1
Public sector enterprises	10	1.0	112	7.3	54	4.0
Other <sup>2)</sup>	3	0.3	2	0.1	29	2.2
No information on segment	–	–	9	0.6	58	4.3
<b>Total</b>	<b>1,025</b>	<b>100.0</b>	<b>1,524</b>	<b>100.0</b>	<b>1,336</b>	<b>100.0</b>

1) Incl. armed forces

2) Incl. (primarily) housing

Source: WSI Works and Staff Council Survey (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Survey).

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unions and professional organisations” to the extent that the completed questionnaire contained the relevant information. As in earlier surveys, however, it is fair to assume that an above-average number of completed questionnaires from staff councils without details of trade union segment come from staff councils outside the areas covered by the DGB trade unions.

Overall, the high response rate from the non-DGB segment indicates that the corresponding staff councils are willing to provide information (something that cannot always be taken for granted) and are not reluctant to cooperate with the WSI. It should be mentioned at this point that, in the second and third WSI main surveys, allocation to a specific trade union segment was derived from the answer to the question: which trade union covers the *majority* of your *workforce* – in other words, not the majority of the works or staff council? If the answer indicates membership of a non-DGB trade union or a professional organisation, it must be assumed that the public sector establishment in question is a

“stronghold” of the said organisation – and not an area of employment with only a few members of trade unions that are not DGB unions.<sup>6</sup>

The readiness of company-level interest representation bodies to provide information is reflected not only in the number of returned/completed questionnaires but also by the high level of willingness to state the full name, the function in the works or staff council, the address of the body and, finally, also the contact data of the person who filled out the questionnaire. As in previous surveys, a further strong indicator for

<sup>6</sup> To this extent, the distribution data for 1999/2000 and 2002 in *Table 7* are not fully comparable with those for 1997/1998: in the first main survey, the WSI equated the various economic or administrative sectors in which the works and staff councils said they were active with the corresponding segments covered by the DGB trade unions – and, in view of the competition from other organisations, this overstated the role of these unions in the public sector.



**Table 7: Distribution of surveyed staff councils/establishments by trade union segment**

	1997/1998		1999/2000		2002	
	Absolute	in %	Absolute	in %	Absolute	in %
ver.di	857	83.6	899	59.0	762	57.0
IG BAU1 (construc., agric., environm.)	–	–	–	–	62	4.6
GdP (police)	41	4.0	24	1.6	96	7.2
GEW (education and science)	112	10.9	120	7.9	45	3.4
Other trade unions	15	1.5	258	16.9	130	9.7
- incl. Steuergewerkschaft (union of employees in financial authorities)	–	–	55	3.6	37	2.8
- incl. Beamtenbund (civil service union)	–	–	56	3.7	30	2.2
No information on segment	–	–	223	14.6	241	18.0
<b>Total</b>	<b>1,025</b>	<b>100.0</b>	<b>1,524</b>	<b>100.0</b>	<b>1,336</b>	<b>100.0</b>

1) Forestry offices, parks offices etc.

Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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the willingness of respondents to provide information is the high percentage of those who explicitly state their willingness to take part in an additional interview after filling out the questionnaire (58 % in the case of the works councils, 50 % in the case of staff councils).

However, this general willingness to provide information must be seen against the backdrop of a sometimes limited ability to provide the requested information. It is frequently the case, for example, that not all the questions in the questionnaire are answered. There are various reasons for this. One common problem is the frequently incomplete or incompatible information on general company data such as number of employees and the breakdown of the workforce into typical and atypical employee groups. This appears to be due to a lack of information that can be called on at short notice. This may in turn indicate that the respondents did not want to take the perhaps inconvenient route to this information via the personnel department or the management; it may also reflect the fact that the responsibilities of the councils do not fully cover marginal groups in the workforce. It could also be the case that some works councils are not aware that, on the basis of Section 80 Para. 2 of the amended Works Constitution Act, they have a right to information from the employer concerning the employment in the company of people who do not have a regular employment relationship – in other words, mainly hired labour and those on limited work contracts.

But even some of the answers that were given are to be treated with caution. For example, the general data for number of employees and workforce structure sometimes indicate that the works councils in

particular provide answers that apply not – as requested by the WSI – to the company in question and the conditions in this company but to the supraordinate company or even to a group of companies, particularly if the council members also sit on supraordinate representation bodies. A further restrictive factor (and one which it is difficult to quantify) is the trend towards merging or centralisation of representation bodies, primarily among the regional branches of companies in the trading, construction, (health) insurance, banking and savings bank sectors. As was apparent from additional information (e.g. telephone interviews) gathered during the WSI survey, this trend has been reinforced in recent times, often at the instigation of the employers. The works councils agree to these suggestions, as, in return, they are often able to push through a higher number of work releases, and this helps them to place their work on a more professional footing. At the same time, however, the price they pay for centralisation is that they sacrifice their sometimes important close contact with day-to-day occurrences in the office or on the shop floor – even if experience to date appears to show that they attach importance to ensuring that the “old” works council members are also represented on the new centralised works councils. The works councils seem to consciously accept this price/reward system. Another point is that the WSI does not use a panel system for the survey (which would mean that, wherever possible, the identical works and staff councils who took part in the last survey answer the questions again in a follow-up survey). A panel system is far more complex yet is only practicable for a limited period of time due to the problem of “panel mortality” – the increasing reluctance of

“tired” respondents to provide answers over time and lower returns due to respondents who have moved on. On the other hand, however, a panel system allows more reliable time-based comparisons between the various survey dates within this limited period.<sup>7</sup>

However, these limitations do not seriously affect the general validity of the answers provided in the WSI survey. In view of the number of cases and their distribution by region and company size, the findings can – as has been the case in the past – be considered to be representative for the private sector and the public service sector in Germany – albeit primarily for companies and public sector establishments with a works or staff council – and can in a certain sense also serve as a benchmark for companies and establishments without interest representation bodies. To ensure that they are fully representative, various weighting factors are assigned to the evaluated survey findings to underline their validity for the whole of Germany. The findings presented below are weighted. With regard to the consequences of weighting, however, it is important to point out that there are only minor to marginal differences between the unweighted and weighted results. The WSI traditionally takes the weighting factors (separately according to numbers of employees for different sizes of company and economic sectors) from the results of the IAB company panel, which – as mentioned earlier – comprises a representative survey of the employer’s side regardless of the existence of a works or staff council and which therefore provides several reference parameters for the WSI survey.

For transverse and longitudinal comparisons, the selected survey findings presented here and in the other articles in this journal represent only a small range of evaluation options with regard to the demarcation of company sizes and economic/administrative sectors as well as the combination of these and other characteristics. Evaluation requests can be made to the WSI by third parties – as featured in this journal in the article by *Keller and Schnell*

<sup>7</sup> For information on the IAB company panel, a survey that was conducted over a long period with the corresponding effort this involved, see *Ellguth* (2003).

from the University of Konstanz.<sup>8</sup> The only limits on evaluation are time restrictions and the survey-specific limits based on the given number of cases and other factors. The latter include sometimes (slightly) modified questions over time in the various WSI surveys which might impair time-based comparisons.

# 3

## Selected survey findings

### 3.1 PRESSURE OF PROBLEMS AT COMPANY LEVEL

The problems at company level with which works and staff councils have been confronted since the beginning of 2000 are still numerous and varied (Tables 8 and 9). This pressure persists, as is shown by the frequency with which the relevant problem areas are mentioned. The pressure of problems does *not* correspond to the leeway for action and problem solution potentials of the company-level interest representation bodies – as is shown by the answers given by the respondents to the question concerning success achieved to date in the various problem areas, namely: “How much have you achieved to date?” (not shown in the Tables). Although there are shifts in the rankings of problems between the periods covered by the third WSI main survey and the second survey, these shifts do little to change the overall picture or the relative importance of individual problems (particularly at the top of the ranking list) – despite the different economic situations and differences in the other parameters that served as the backdrops for the two surveys. This finding is briefly outlined in Table 8 using the example of the private sector companies.

The topic of “personnel cutbacks”, for example, is still only ranked second, but it is a problem that still concerns more than half of all companies – and the figure for west Germany alone is even higher at 60 %. The topic that heads the rankings – phased part-time retirement – which ranked only fifth in the second survey of works councils, is often also a special form of personnel reduction, one that has been initiated but not yet completed. Moreover, the works councils also make more frequent mention (36 %) of “protection against dismissal” – parallel to the economic downturn, and

**Table 8: Problem areas for works councils in the surveyed companies<sup>1)</sup> (in %)**

	1997/98	1999/00	2002
Phased part-time retirement	–	50	64
Personnel cutbacks	63	58	56
Health and work safety	24	52	51
Further training	18	45	48
Deterioration of company climate	–	–	47
Subsidised “Riester” pension scheme	–	–	47
Increased pressure to perform	57	57	42
Changes in work organisation	43	48	41
Increased overtime	38	51	40
Protection against dismissal	34	33	36
Introduction of new technology	36	40	34
Introduction of new working time models	48	48	33
Social plan / Balancing of interests	32	35	33
Tougher employer attitude towards council	29	32	31
Victimisation/Mobbing	–	25	29
Wishes of employees for flexible working times	–	–	27
Spin-off of parts of company	28	33	26
Measures to reduce absenteeism	26	30	25
Increase in Saturday work	23	29	24
Lack of support for works council among employees	–	–	23
Low entry wages for new employees	17	24	21
Limitation of company-level social benefits	22	21	20
Reduced voluntary benefits	25	20	20
Restrictions on further training	16	22	20
Increase in Sunday and holiday work	9	16	16
Merger with other companies	–	17	16
Closure, sale of parts of company	15	17	16
Short-time work	17	15	14
Freeze on pay rises	15	16	13
Withdrawal from employers' federation	10	13	12
Pay levels below collectively agreed levels	8	14	11

1) Based on frequency of mentions by the works councils; multiple answers allowed. Further problem areas with frequencies below 10 % were not included here. Source: WSI Works and Staff Council Survey (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Survey).

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this is also an indicator for (imminent) personnel cutbacks.

Other lower levels of problem frequencies reflect the weak economic backdrop more strongly. In the 2002 survey, for example, the problem of “increased pressure to perform” is several percentage points lower than in the previous WSI survey; the reduction in the percentage score for “change in the area of work organisation” is not as pronounced. Other problem areas receive more mentions than in 1999/2000, possibly also because, due to some degree of relief on other fronts, the interest representation bodies are increasingly aware of new or “backed-up” problems – such as “further training” (48 %). Yet other problem areas have remained more or less unchanged in terms of the frequency with which they were mentioned: such as “tougher employer’s attitude towards the works council” (31 %) or “withdrawal from the employers’ federation” (12 %). Last but not least, some of the problem areas included in the list for the first time are mentioned frequently: these include “the subsidised “Riester” pension scheme/company pensions” (47 % of respondents), “deterioration of the company climate” (47 %), “wish of employees for flexible working times” (27 %) or even “lack of employee support for the works council” (23 %).

Similar shifts in problem ranking can be observed in the answers given by the staff councils, which space restrictions prevent us from outlining in more detail here (see the article by Keller/Schnell in this journal for more information).

### 3.2 FINDINGS ON COMPANY-LEVEL ACTION PARAMETERS

The description of problem areas and their frequency already indicates that the relative influence of the employer and the works council on a range of parameters at company-level is asymmetrically distributed. For employers, changes in the area of work organisation, including mergers with other companies or spin-offs to form separate entities etc., are primary action parameters that are sometimes not dependent on the overall economic situation. The freedom of action of employers in this area is wide-ranging, and firms make frequent and flexible use of these options. In contrast, the same parameters have the character of

<sup>8</sup> The questionnaires used by the WSI – the central criterion for the evaluation process – are available from the WSI on request.

**Table 9: Problem areas for staff councils in the surveyed establishments<sup>1)</sup>**  
(in %)

	1997/98	1999/00	2002
Phased part-time retirement	–	68	62
Further training	42	59	55
Personnel cutbacks	59	56	53
Changes in work organisation	49	49	49
Health and work safety	30	53	46
Deterioration of in-house climate	–	–	40
Introduction of new technology	46	55	38
Increased pressure to perform	46	43	36
Victimisation/Mobbing	–	34	34
Modernisation of the administration	43	44	33
Introduction of new working time models	32	40	29
Wishes of employees for flexible working times	–	–	26
Privatisation	18	18	25
Increased overtime	22	24	20
Spin-off of establishments	23	24	19
Tougher attitude of management of establishment towards council	25	27	19
Lack of support for staff council among employees	–	–	16
Subsidised “Riester” pension scheme	–	–	16
Restrictions on further training	11	14	15
Merger with other establishments	–	12	14
Protection against dismissal	18	17	14
Measures to reduce absenteeism	17	19	12
Closure, sale of establishments	10	9	11

1) Based on frequency of mentions by the staff councils; multiple answers allowed.  
Further problem areas with frequencies below 10 % were not included here.  
Source: WSI Works and Staff Council Survey (1st, 2nd, 3rd Survey).

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more or less predefined framework conditions for the second actor at company level – the works or staff councils, who have few response options and who can often only react in a defensive manner (such as by helping to arrive at “socially acceptable” solutions, for example). Even individual co-decision-making options generally have to fit in with the company (cost) framework as defined by the employer’s side – this has certainly been the case to date. These options include the rights of the works councils to initiate and promote goals such as employment protection within the company, qualification, affirmative action for women, the reconciliation of work and family, and company-level environmental policy as laid down in the new Works Constitution Act. It is not yet possible to evaluate the workability of these options, however, as the works councils have not yet had sufficient time to implement the relevant projects and schemes and to gain the necessary experience.

The area in which the aforementioned asymmetry is most clearly evident is that of workforce levels and in particular the employment structure in companies and public sector establishments. This is an area in which the employer has a wide range of flexible options, whereas the employee representatives have little or no influence in these matters. Although the influence of employers on the size of the workforce is still generally dependent on the economic situation, they have increasing options to “decouple” growth and employment levels

– or they are making more widespread use of these options than was previously the case. This “decoupling” process is underpinned by new “work-saving” technology, the externalisation of employment (spin-offs, hired labour), and the intensification of internal employment (changes in work organisation, increased pressure to perform, more overtime including Saturdays etc.). It is therefore no surprise that the third WSI main survey supplies evidence for the “decoupling” of production and/or company success on the one hand and employment levels in the other.

In 2002 as in 1999/2000, works councils’ assessment of the economic situation of their companies was far more often positive than negative (with a balance of plus 17 %), while the results also indicate that far more companies have downsized the workforce (43 %) than increased it (28 %, Table 10). Even the increase in personnel needs to be seen in perspective: almost one in two works councils (45 %)<sup>9</sup> state that the new jobs in their companies are generally on limited employment contracts; this means that future workforce downsizing (and, in view of the overall economic situation, many of these cutbacks will probably take place in the short term) is perhaps already on the cards.<sup>10</sup> This personnel cutback strategy is just as much a reflection of the leeway employers enjoy at company level as the forms which these cutbacks take in practice: the dominant method in the private sector companies (74 %) is to make use of natural fluctuation (in other words,

positions that become vacant are not filled; the figure for west Germany on its own is even higher at 77 %), followed by “mutual agreements between employee and employer to terminate the employment contract” (61 %), “early retirement provisions” (57 %) and “redundancies” (43 %, with east Germany on its own recording 51 %).<sup>11</sup> The forms and frequencies of these personnel cutbacks show that the companies are not solely or primarily dependent on redundancies when it comes to forcing through their personnel policy.

The fact that redundancies are a standard practice in almost one in two companies also shows that – despite public impressions to the contrary – this form of downsizing is not as difficult to implement as it may seem. Neither can it be as expensive as is frequently claimed: a special survey conducted by the WSI in cooperation with Infratest indicates that job loss compensation is only paid in 15 % of all redundancies (Bielenski/Seifert et al. 2003); this figure of 15 % already includes payments based on “social plans”. If all forms of employment termination are taken together (excluding the automatic forms as in the case of retirement and the expiry of limited contracts), the figures in the special survey of around 2,500 people who had lost their jobs suggest that job loss compensation is only paid in 10 % of all cases. Even when both parties agree to terminate the employment relationship (a form of termination that accounts for only 10 % of all terminations), a job loss compensation is only paid in 34 % of cases. The freedom of action for employers when planning personnel cuts is accordingly wide-ranging.

The third WSI main survey in summer 2002 confirms the trend found in the previous surveys towards an “atypical” workforce structure: The percentage of those with regular, permanent employment contracts is falling, while the percentage of those with limited contracts, hired-out employees and those in marginal and other

9 And a relatively high 26 % or one in four staff councils.

10 The question of whether new employees are initially taken on for a limited period of time was not asked in the earlier WSI surveys, and this means that time-based comparisons are not possible.

11 Multiple answers were possible for the types of cutback.

non-typical employment forms continues to increase (as was also shown, for example, by the microcensus). Nevertheless, the positive balance between the increase and decrease of atypical employment groups in the surveyed companies is smaller than it was, and this is probably mainly due to the weak economy – which also prompts employers to delay decisions even in the area of atypical employment (Table 10).<sup>12</sup>

These figures confirm that the employers in the private sector already have considerable leeway for flexibilisation, and this is further underpinned by other indicators based on the survey findings. The publicly made call for (even) more flexibility in the labour market<sup>13</sup> was welcomed by an extraordinarily low percentage (5.7 %) of works councils, who were asked about this subject for the first time. A clear majority view this demand with scepticism, and there are no marked differences between attitudes in west and east Germany: 32 % of works councils describe this demand as “two-edged”, while 57 % see it as being “generally problematical”.<sup>14</sup> At the same time, a clear majority of 61 % of surveyed works councils say that the personnel policy leeway enjoyed by the employers is “already big enough”; and 47 % believe that the restrictions on employment protection in small companies “already go too far”.<sup>15</sup>

Compared to the flexibilisation leeway enjoyed by the employers, the creative and/or corrective options of the works councils (and, by analogy, of the staff councils) are few and far between, and the reformed Works Constitution Act has done little to change this situation – although the influence of the employers was strengthened even further by the laws on part-time and limited employment that came into effect on January 1, 2001 shortly before the Works Constitution Act was passed. The works councils are apparently fully aware of the problems associated with the “atypical” employment structure and their own relative lack of influence in this area; for they welcome the suggestion (as was also addressed in the WSI survey in 2002) that the works council should be able to put a ceiling on the percentage of limited contract/hired-out employees in the company with a surprisingly high frequency of 77 % (west Germany 78 %, east Germany 72 %).

Until these calls are heard, the works councils could try to achieve more using the modest means at their disposal. These include, for example, the company-level

**Table 10: Development of employment by employee categories<sup>1)</sup> in the surveyed companies**

	Increase	Constancy	Decrease	Balance +/-
Employees on regular, unlimited contracts				
2000 to 2002 <sup>2)</sup>	19 %	20 %	28 %	- 9
1998 to 1999	22 %	30 %	37 %	- 15
Limited-term employees				
2000 to 2002 <sup>2)</sup>	22 %	25 %	19 %	+ 3
1998 to 1999	32 %	23 %	11 %	+ 21
Marginal employees				
2000 to 2002 <sup>2)</sup>	7 %	34 %	6 %	+ 1
1998 to 1999	10 %	32 %	4 %	+ 6
Other (also freelance employees)				
2000 to 2002 <sup>2)</sup>	13 %	28 %	8 %	+ 5
1998 to 1999	6 %	25 %	3 %	+ 3
Overall employment				
2000 to 2002 <sup>2)</sup>	28 %	21 %	43 %	- 15
1998 to 1999	24 %	21 %	43 %	- 19

1) Differences in changes up to the full 100% = due to no answer – 2) Mid-2002.

Source: WSI Works and Staff Council Survey (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Survey).

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“agreement on employment protection”, that exists in 29% of private sector companies according to the WSI 2002 survey – a similar figure to that recorded in the previous survey. A further 5 % of works councils say that an agreement of this type is being planned. However, the findings of the second WSI main survey in 1999/2000 showed that these agreements, which mostly cover several areas of the company and therefore offer – at least in principle – options for the extension of the formal leeway for action of the works councils, have been primarily of “defensive” nature to date and designed to protect the size of the workforce (Seifert 2000). This means that they can *probably* make little or no contribution to the determining the structure of the company workforce (although this specific question has not yet been included in the survey). However, the content of the agreements on employment protection could in future be geared towards the structural issue, particularly if the works councils make full use of their new initiative rights in this area as provided for in the reformed Works Constitution Act.<sup>16</sup>

The utilisation of the options laid out in the aforementioned laws on part-time and limited-term employment could also have an effect on the direct organisation of part-time work and thus indirectly also on the size of the company workforce. These laws were one of the reasons the aspect of “employee wishes for flexible working times” was added to the catalogue of questions on company-level problem areas in the WSI survey. If, as mentioned above, 29 % of the surveyed works councils see this issue as a “problem” within the company, this primarily indicates that the em-

ployer has not fulfilled or only partly fulfilled the wishes of the employees for shorter working times. The more successful the works council is in making the wishes for reduced working time heard (even if this reduction is of only a temporary nature), the greater the potential positive employment effects (due to the need for new employees). In principle, these wishes for reduced working time could be combined with the new task of the works councils to promote the reconciliation of work and family life.

Both potential strategies of works councils – including agreements to secure

12 The question as to whether at least some of the people initially taken on in an atypical employment relationship are transferred to typical employment relationships over time – in other words, whether atypical employment not only serves as an alternative form of employment but also has a “bridge function” – is being investigated by *Silke Bothfeld* and *Lutz Kaiser* from the WSI in a further article based on the WSI survey findings that is scheduled for publication in issue no. 8/2003 of the WSI-Mitteilungen.

13 The corresponding question was: “In the political debate, the call is often heard for greater flexibility on the labour market (e.g. in the area of limited-term employment, hired labour, protection against dismissal), as the only way of creating more jobs. What is your general assessment of such demands?”

14 The levels for failure to give a response and the answer “Don’t know” were both extremely low at just under 3 % in each case.

15 For the last two questions, the non-response rates were 22 % and 29 % – not least because the surveyed works councils were not only from small companies.

16 For more information on these options, also see the summary by *Heidemann et al. 2002*



employment structures and reduced working time to meet employee preferences – are suitable topics for future WSI surveys.

### 3.3 FINDINGS ON “INDUSTRIAL RELATIONS”

The WSI survey is not only devoted to portraying the framework conditions and action parameters or “outputs” of the parties at company level. A further aim of the survey is to make the inputs of employers and interest representation bodies (in other words, the overall system of relations between the two sides) more transparent. This system of relations also includes the workforce (within the company) and the principle of bargaining autonomy (outside the company). For this purpose, the surveyed works and staff councils were asked to provide information on, among other matters: the method by which the workforce is involved in the election of the interest representatives, the composition of works and staff councils, form and frequency of contact between the councils and employers as well as workforce, negotiations, the exchange of information and conflicts with the employer, and, finally, the relationship vis-à-vis trade union bargaining policy and the support activities of the trade unions within the company. Again, the findings can only be briefly outlined in this article. These topics are dealt with at far greater length (with the focus on works councils) in the articles by *Martin Behrens*, *Christina Klenner/Christiane Lindecke*, *Reinhard Bispinck/Thorsten Schulten* in this journal and by *Berndt Keller/Rainer Schnell* in an article that focuses solely on staff councils. Due to constraints of space, the above authors are also forced to concentrate on selected findings.

The survey findings on the works council elections in the spring of 2002 that were held in line with the 2001 amendments to the Works Constitution Act are of particular interest. The public amendment debate and the trade union election campaigns that followed only had a limited positive effect on the election turnout. Although the percentage of surveyed works councils in west Germany who noted a higher election turnout in 2002 compared to 1998 is considerably higher than the percentage of works councils who reported a lower turnout, the figures for east Germany are the other way around. Nevertheless, the elections can be described as surprisingly

positive overall. Not only did 88 % of the companies in the size category up to 50 employees make use of the simplified and accelerated election procedure that was tailored to their needs; in the size category from 51 to 100 employees, 49 % of the surveyed companies also used the simplified election option provided for in the Works Constitution Act – despite the fact that the employers’ federations severely criticised this option in 2002 and predicted problems with its implementation. The simplified election procedure was even used in the bigger companies – albeit by a lower percentage of works councils. In the overwhelming majority of cases, the procedure was employed on the basis of an agreement between the parties at company level (also provided for in the Works Constitution Act). As the works councils *in question* who signed such an agreement said in the WSI survey, *their* companies – namely, small to medium-sized companies – are (compared to other companies) also characterised by a generally communicative and low-conflict relationship between the parties at company level (for more details, see the article by *Behrens*).

Another new provision for the election of works councils was the introduction of a minimum quota of seats on the works council in all works council bodies with three or more members for the minority gender in the company based on its percentage share in the workforce. As women are in the minority in most German companies, this provision was designed to promote stronger representation of (previously under-represented) women on the works council. Here too, the WSI survey confirms that implementation of this provision was successful: according to the answers given by the surveyed works councils, this minimum quota was not observed in only 16 % of companies and was fulfilled in 69 % of companies (15 % gave no answer). The percentage of works councils which did not meet the quota also needs to be put in perspective: according to the answers given by the councils, the quota was most seldom fulfilled in small companies where there were often insufficient numbers of women available for election to the works council. In any event, the introduction of the minimum quota has generally achieved its objective, namely to increase the number of women elected to works councils – on average (based on the surveyed companies) almost to the level of the proportion of

women in the overall company workforce (more details in this journal in *Klenner/Lindecke*).

It was not possible to make any serious assessment of other new provisions and objectives of the reformed Works Constitution Act (company-level qualification, affirmative action for women in companies, combining work and family, company-level environmental protection) in the WSI survey in summer 2002, as the works councils that had just been newly elected will need some time to increase awareness levels and implement the relevant projects. It is conceivable that this time factor also affects the survey findings relating to the works council elections in 2002. It probably further applies to the full-time work releases reported by the works councils; whereas the second WSI main survey recorded over-fulfilment of these statutory works council entitlements by the employers, the third WSI survey in summer 2002 indicated under-utilisation of these rights. It is also possible, however, that the corresponding survey finding is additionally distorted by the reported increase in partial (part-time) work releases (see *Behrens* for more details).

The reported implementation of the new electoral regulations laid down in the Works Constitution Act can be seen as constituting acceptance of these regulations not only by the works councils (as explicitly confirmed by the answers given) but also by the employers. This is further evidence that should allay the fears voiced during the amendment debate and confirm the general viability of company-level codetermination. The latter is also confirmed by other findings of the WSI survey. One difference that should be emphasised compared to the previous survey is the marked decrease in the percentage of works councils who complain of “frequent attempts” by the employer to hinder the works council in the exercise of its statutory rights. This reduction in the level of opposition is also reported in particular by the works councils in east Germany – and this is perhaps an indication of the “normalisation” of industrial relations in this region. However, this development should not lead us to ignore the fact that the percentage of employers who attempt to create obstacles to the activities of the works councils is still noteworthy, in particular in smaller companies with fewer than 200 employees – who still have no entitlement

to work release and who are only able to perform their work professionally to a limited degree.

Alongside the relations between the parties at company level, the relationships in the area of bargaining policy and vis-à-vis the trade unions are also of interest and part of the public debate on the topic of collective bargaining. At first glance, the WSI survey confirms a seemingly high level of coverage by collective agreement: in 2002, 88 % of private sector organizations (70 % of them by a sector-wide collective agreement) and 86 % of the public sector establishments (82 % of which were covered by a sector-wide collective agreement) were covered by collective agreements; and the level of coverage based on the absolute number of employees is even higher in both cases. However, the figures also show that levels of coverage by collective agreement have fallen over time from a previously far higher level to an extremely low EU-wide level ("external erosion"). These coverage levels have been additionally hollowed out by de facto violation of collectively agreed standards ("internal erosion"), partly as a result of "controlled decentralisation" in the form of collectively agreed opening clauses, partly through "wild decentralisation" in the form of violation of collective agreements at company level (according to *Bispinck/Schulden*). The extent of this decentralisation is clearly indicated by the findings of the WSI survey; it is focused on the smaller companies.

Not only does this finding contradict the widespread complaints of insufficient flexibility of bargaining policy, particularly at the level of the smaller companies; it also puts an ever-bigger question mark over the purported benefits of this flexibilisation for employees – at least from the point of view of the works and staff councils who are supposedly "favoured" by this process of decentralisation. The councils meanwhile have greater experience of the effects of decentralisation than they had at the time of previous surveys and (as a result?) state even more frequently that they consider the decollectivisation of bargaining policy to be "generally problematical"; in 2002, 42 % of the surveyed works councils and 27 % of the surveyed staff councils concurred with this view. Together with the percentage of interest representation bodies that see decentralisation as being a "two-edged sword" (38 % of works councils and 41 % of staff councils), this means that the

great majority of councils view this development with a high level of scepticism. This scepticism is underscored by the answers to more detailed questions in the WSI questionnaire on the publicly debated potential and risks of decentralisation (for more details, see *Bispinck/Schulden*). The surveyed councils even explicitly state that there is a need for "recentralisation": one in two works councils and one in three staff councils would like to see greater use made of the instrument of extension; and four in five works councils and three out of four staff councils believe that a statutory minimum wage is a good idea as a flanking measure to support bargaining policy.

## 4

### Conclusion based on the survey findings

Like the preceding surveys, the third WSI survey of works and staff councils has made the day-to-day activities at company level more transparent, indicating avenues for future research and political consulting.

It was generally unexpected to find that the new provisions for works council elections in the Works Constitution Act would be implemented and accepted to the extent that they have been. It came as no surprise, however, to learn that the works councils are not satisfied with the modest extension of "employment promotion options" in the Works Constitution Act in connection with the increasingly "atypical" nature of the workforce structure. The future will show whether the works councils make greater use of indirect options in this area. Whether other provisions of the Works Constitution Act are implemented and prove their worth in practice also remains to be seen. Another open question is that of whether the political actors will, as is only logical, soon initiate a reform of the staff representation laws to address the problems in the public sector establishments and on the staff councils.

In the context of the current political debate over company-level job protection, the findings of the WSI survey do not confirm the widespread opinion that the German labour market is too inflexible at company level. Indeed, the findings show substantial flexibility when increasing and downsizing the workforce, and a consider-

able number of works councils even believe that the current legislation already gives employers in small companies excessive leeway to bypass job protection provisions. Similar corrections to widespread opinions are necessary when it comes to claims of inflexible bargaining policy. Bargaining has become more flexible, but this has not necessarily been to the advantage of employees and interest representation bodies. On the contrary: works and staff councils believe that the employers' position of strength has been fortified while describing their own position as weak due to the decreasing level of support from the external regulatory framework.

All the findings of the survey once again confirm the general intensity, vibrancy and functionability of industrial relations at company level. In connection with the preceding WSI surveys, it has already been claimed that these tried-and-tested relations exercise a positive influence on companies and public sector organizations without representation bodies as they constitute benchmarks (*Schäfer 2001*). This claim appears overstated in view of the fact that "only" 12 % of all companies in the private sector which qualify for the creation of a works council actually have such a council – and remains optimistic even if we consider that these companies account for 49 % of all employees in companies that qualify for the existence of a works council.

This quantitative spread of company-level codetermination, the scope of which has long been known from the IAB panel and the corresponding information provided by the employers, also lends itself to a different interpretation: 12 % translates into 115,000 works councils in absolute terms as well as several tens of thousands of staff councils in 2002 (for more detailed information, see *Ellguth 2003a, b*). In other words, several hundred thousand council members are involved in the area of interest representation. Even if trade unions are sometimes surprised by the extent of company-level codetermination bodies – due to the fact that they arrive at lower figures based on the voluntary reports of newly elected (and unionised) works councils following the regular works council elections – the very fact that they are surprised can also serve as a positive indicator for the significance of the company-level system of codetermination. Last but not least, the IAB panel surveys that have been conducted in west Germany since 1993 and in east

Germany since 1996 did not confirm the frequent claims of erosion of the quantitative scope of company-level codetermination; according to the surveyed management executives, the level of coverage of the bodies and that of the employees they represent has remained more or less constant over time.

However, the IAB panel data do not indicate that the new Works Constitution Act has boosted the number of works council bodies - as had been hoped - between the works council elections in 1998 and 2002. It is possible that any such boost went unnoticed for methodological reasons, since - as was the case with other statistics from the Federal Labour Office - the 2000 IAB company panel was based on a new specification of economic sectors, and this made it difficult to accurately compare the most recent panel findings with those recorded before 2000. It is also conceivable that such a boost never took place, as the panel findings not only reflect a steady increase in the number of new companies and works councils but also the regular demise of existing companies and representation bod-

ies; around 20 % of all companies generally disappear from the scene within a five-year period. To date, these changes have balanced each other out when it comes to the total number of works councils, as, on the "new company" front, the newly founded companies - that are generally smaller and less frequently have a works council - are outnumbered by company spin-offs, which are generally bigger and more frequently have works councils (according to *Peter Ellguth* in his presentation at the Hans Böckler Stiftung on March 7, 2003 based on the panel findings). It is important to note, however, that this process of "equalisation" cannot be projected into the future, as the number of possible company spin-offs is ultimately finite.

Unfortunately, spin-offs from existing companies or public sector organizations not only pose a future destabilisation risk for the scope of company-level codetermination. Spin-offs are already responsible for much of the erosion in the area of collective agreement coverage, as the employees in these spin-offs are covered either by "inferior" collective agreements or by no

collective agreement at all (according to *Bispinck/Schulten* on the basis of the WSI survey findings). This external erosion of the coverage scope of collective agreements could also have a negative impact on company-level codetermination, as the activities of the works and staff councils would no longer be supported by the existence of external regulations outside their companies and public sector establishments. Their company-level negotiating status could similarly be weakened by the internal erosion trends (opening clauses and similar) also described by *Bispinck/Schulten*.

Ultimately, this means that the fact that the system of company-level codetermination and collective agreement coverage still functions in practice gives us no grounds for complacency - particularly as the erosion trends that are already visible could mutually reinforce each other in the future. The prospects for counteracting these trends do not appear to be too poor, particularly in view of the untapped potential of companies and public sector organizations that are still without works or staff councils.

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*Further publications based on the WSI Survey of Works/Staff Councils can be found on the HBS website under WSI [Projects, Works/Staff Council Survey].*