

## **On the rough road: collective bargaining on working time in Germany**

### **Abstract**

Germany would probably be a candidate for one of the top positions in any ranking of countries with rather short working hours and an effective institutional setting for the regulation of working time. By international standards, collective bargaining appears to work fairly smoothly and powerful trade unions such as IG Metall are still known as pioneers of collective working-time reductions. In recent years, however, there has been a growing debate amongst industrial relations researchers about the nature of the changes in the German industrial relations system. More particularly, the question is whether we are witnessing an erosion, or even a gradual dismantling, of the system or a process of reform and restructuring.

The aim of the present paper is to contribute to this discussion by analysing trends in actual working hours. The duration of actual working hours, as well as their structure by gender, occupational category, industry etc., should serve as a tentative indicator of the outcomes and effectiveness of the regulatory system. Drawing on data from the European Labour Force Survey and the German Microcensus, the paper explores the strengths and weaknesses of the industry-level collective agreements on working time in Germany.

### **Introduction**

The German industrial relations system is going through a period of far-reaching structural change. In both the political and the academic debates, attention has been focused on the decentralisation of the collective bargaining system. Thus Hassel and Schulten (1998) make a distinction between ‘regulated’ and ‘non-regulated’ processes of decentralisation and regard a gradual shift of emphasis in favour of the latter as the most likely prospect, even though they stress that the political direction of future developments is by no means predetermined.

One important reason for this sceptical position is the decreasing rate of cover by collective agreement and the declining effectiveness of collective agreements. Although it remains at a high level, the rate of cover by industry-level collective agreements has fallen continuously in recent years: in Western Germany from 69% to 63% of employees between 1996 and 2001 and in Eastern Germany from 56% to 44% (Kohaut/Schnabel 2003). Below-average coverage rates are to be found particularly among small and – significantly for the trend – newly

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established companies. True, the overall rate of coverage by collective agreements is higher than these figures suggest, because company agreements are growing in importance and many companies not bound by collective agreements state that they use the relevant collective agreements as reference points. Nevertheless, many companies are availing themselves of so-called ‘opening clauses’ (better translated as ‘derogation clauses’), which permit them in certain situations to conclude company agreements that deviate from the provisions of the collective agreement. And irrespective of any such legal dispensations, failure to comply with collectively agreed standards is an increasingly common phenomenon, particularly in Eastern Germany, and in many cases with the agreement of works councils (Schmidt et al. 2003).

For Bispinck and Schulten (1998), we are facing a process of erosion which has two distinct aspects. What they call ‘external erosion’ is reflected in declining membership numbers for the various associations and federations and in the increasing number of areas not covered by collective bargaining and codetermination. This is further compounded, they argue, by a process of ‘internal erosion’, which is reflected primarily in the increasing shift of the content of regulation from the industry level to the firm and in the decreasing binding power of collective agreements. Working time regulation stands at the heart of these developments. Since the 1980s, industry-level collective agreements have delegated ever more regulatory powers to the negotiating parties at establishment level. Today, firms enjoy considerable room for manoeuvre in the allocation and differentiation of working time.

There can be no denying the existence of a fundamental trend towards decentralisation, nor that it is taking place against the background of a declining rate of cover by collective agreements. However, analysis of these structural changes tells us little about the effects of these changes on employment and working conditions. One important indicator of these effects is the length of working time. This is an issue which, in Germany, lies at the heart of the regulation of employment and working conditions through collective agreements and in past decades it has been the object of major trade union campaigns. More recently, the duration of working time has returned to the limelight. This time, however, it is not the trade unions that are demanding shorter working hours. Rather, mainstream economists, politicians and some of the employers’ associations have ignited a major public debate on the need to extend Germany’s allegedly very short working hours. Agreements on extended working hours concluded between IG Metall and several prominent companies have added further fuel to the debate.

For these reasons, it is reasonable to assume that the structural changes in the industrial relations system that have been observed for years have left their mark, not least on the length of working time. The aim of the following analysis of the evolution of working time, therefore, is to ascertain the extent to which the collective bargaining system is being eroded by examining the effectiveness of collective agreements on working time<sup>i</sup> in order to build up a differentiated picture of the strengths and weaknesses of this system.

## 1 Collectively agreed and actual working times

Since the mid-1990s, average collectively agreed working times in Germany have remained unchanged at 37.65 hours per week (BMWA 2003: 50). In the previous decade or so from the mid-1980s to the mid-1990s, there had been significant reductions in collectively agreed working times. The reductions in Eastern Germany in the early and mid-1990s were somewhat smaller (Table 1).

*Table 1: Calculated average collectively agreed working time in the Federal Republic of Germany*

Year	75	80	85	90	91	93	95	97	99	00	01	02
West Germany	40.3	40.1	39.6	38.3	38.1	37.8	37.5	37.4	37.4	37.4	37.4	37.4
East Germany	-	-	-	-	40.2	40.0	39.5	39.3	39.2	39.1	39.1	39.1

Source: BMWA (2003)

What is the situation with actual weekly working times relative to the collectively agreed level? We will investigate this question in two stages. We will look first at working times agreed at company level. They may differ from collectively agreed working times, since many firms are not bound by collective agreements. At the same time, they may also diverge from actual individual working times, since individual employees may on average work longer hours than those agreed at company level, because of overtime for example. We will then examine individual working times, that is average actual working times.

### 1.1 Working-times agreed at company level

In the representative IAB establishment panel, managers are asked about the average length of the weekly working time of full-time dependent employees, *as laid down in the company agreement*. Since not all companies are bound by a collective agreement, it can reasonably be assumed that working times agreed at company or establishment level are longer on average than those stipulated in the collective agreement. And indeed, according to the IAB establishment panel in 2002, average weekly working times agreed at company level were

38.8 in Western Germany and 39.6 in Eastern Germany (Ellguth/Promberger 2003). Thus the gap between actual working times and those laid down in collective agreements was 1.4 and 0.5 hours per week respectively.

As expected, one factor that is important in determining working times agreed at company level is whether or not a company is covered by a collective agreement. Companies that left the relevant employers' association between 1996 and 1999 increased their weekly working times in Western Germany an average of 30 minutes compared with those companies that continued to be covered by a collective agreement (Kölling/Lehmann 2002). A second important factor is the existence (or otherwise) of a works council. In Western Germany, agreed working times in companies with a works council are 0.6 hours per week shorter than in otherwise similar companies without a works council. In Eastern Germany, the figures tend in the same direction but are not significant (Ellguth/Promberger 2004). In Western Germany, therefore, works councils obviously continue to play their traditional role of 'policing collective agreements' (Artus 2003), a function that is much less firmly established in Eastern Germany (cf. also Schmidt et al. 2003).

These figures can be interpreted in different ways. On the one hand, the differences between the working times stipulated in industry-level collective agreements and those agreed at company or establishment level may not seem to be particularly great. On the other hand, it should be remembered that a growing share of employees work in establishments that are neither bound by a collective agreement nor have a works council, the rate in 2002 being 25% of all employees in Western Germany and 42% of all employees in Eastern Germany (privately owned companies with more than 5 employees; IAB 2003). Given the political pressure to extend working times, these gaps in the system of working time regulation through collective agreements may become ever more significant in future. In any event, it is becoming clear that the traditional 40-hour week norm has retained much of its significance and influence, despite all the working time reductions that have taken place since the 1980s.

Besides establishment surveys, representative *employee* surveys provide data that can be used to determine *actual* working times.

## **1.2 Actual working-times**

The Federal Statistical Office's Microcensus, which provides the German data for the European Labour Force Survey, asks respondents, among other things, to estimate their 'usual'

weekly working times. The data on the evolution of the *actual* working times of dependent full-time employees presented below are based on the answers to this question..<sup>ii</sup>

In 2001, the average *actual* weekly working time of dependent full-time employees in Germany was 40 hours; there was only a minimal difference between Eastern and Western Germany in this regard. Thus the actual weekly working times declared by employees themselves were 1.2 and 0.4 hours respectively greater than those given by managers as the working times agreed at company or establishment level (Table 2).

*Table 2: Average working times of full-time employees in Germany (2002)*

	West	East
Working time enshrined in collective agreement	37.4	39.1
Working time agreed at company/establishment level	38.8	39.6
Actual individual working time	39.9	40.0

Sources: BMWA 2003; Ellguth/Promberger 2003; Microcensus

One initial, general observation can be derived from these findings, namely that the actual usual working time of dependent full-time employees in Germany is, on average, 40 hours per week. Contrary to a widely held view, which is particularly entrenched in Germany itself, this equates to the average for the EU 15 member states (Table 4).

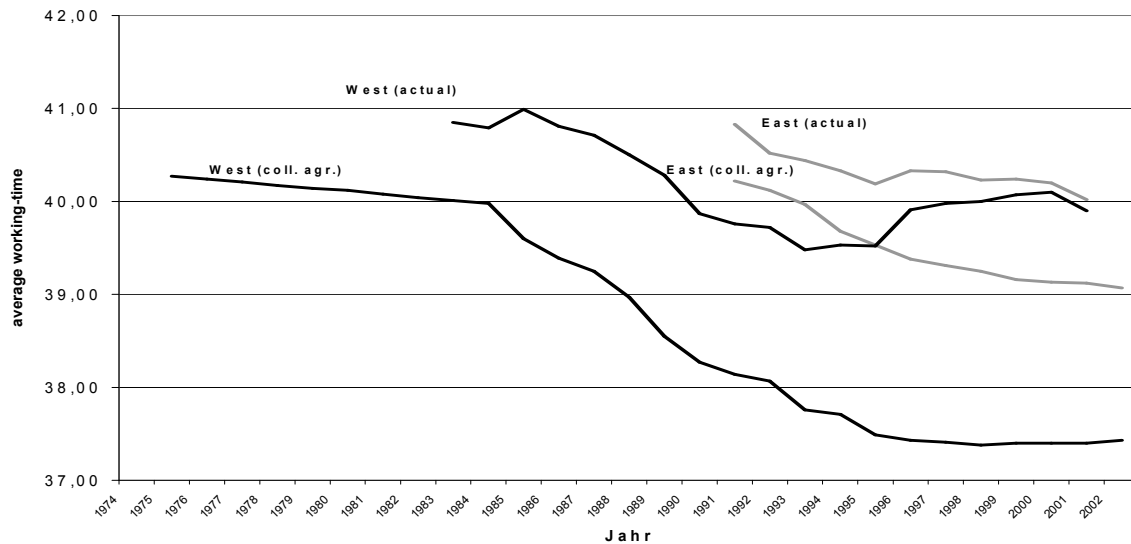
*Table 3: Average weekly working times of full-time employees in the EU 15 (2002)*

EU	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
40	39.3	39.1	39.9	41	40.4	37.7	39.5	38.5	39.5	38.9	40.1	40.3	39.2	39.9	43.3

Source: European Labour Force Survey (cf. also European Commission 2003: 143)

Behind this snapshot, however, a dynamic lies concealed: since the mid-1980s, the difference between collectively agreed and actual working times has continued to widen (Figure 1). During the 1980s, working times in Germany initially increased as the economic upturn got under way, but then began to decrease despite sustained economic growth. They tracked collectively agreed working times as if on a gradually lengthening rubber band. It was not until after the 1993/94 recession that they began to rise again. This is not unusual for the early stages of an upturn. At the beginning of an economic recovery, firms generally make increased use of overtime rather than hiring new staff. This is precisely what happened in the 1980s (Stille/Zwiener 1997). It was not until the recovery stabilised that firms began to recruit in order to ensure that they continued to benefit from further growth. The new element that emerged in the 1990s was that the working time increases characteristic of the early stages of a growth phase were sustained over the entire growth phase of the cycle. This is consistent with the weak employment growth during this period.

*Figure 1: Evolution of average collectively agreed and actual regular weekly working times of full-time employees in the Federal Republic of Germany (in hours per week)*



Sources: BMWA 2003; European Labour Force Survey

One of the causes of this change relative to the 1980s could well be the stagnation of trade union working time policy. In contrast to the previous economic upturn during the 1980s, the unions were unable to put forward any policy measures to counter the extension of actual working times in the 1990s. It was not until economic growth began to flag in 2001 that actual working times fell slightly, a development that went hand in hand with the decline in employment levels.

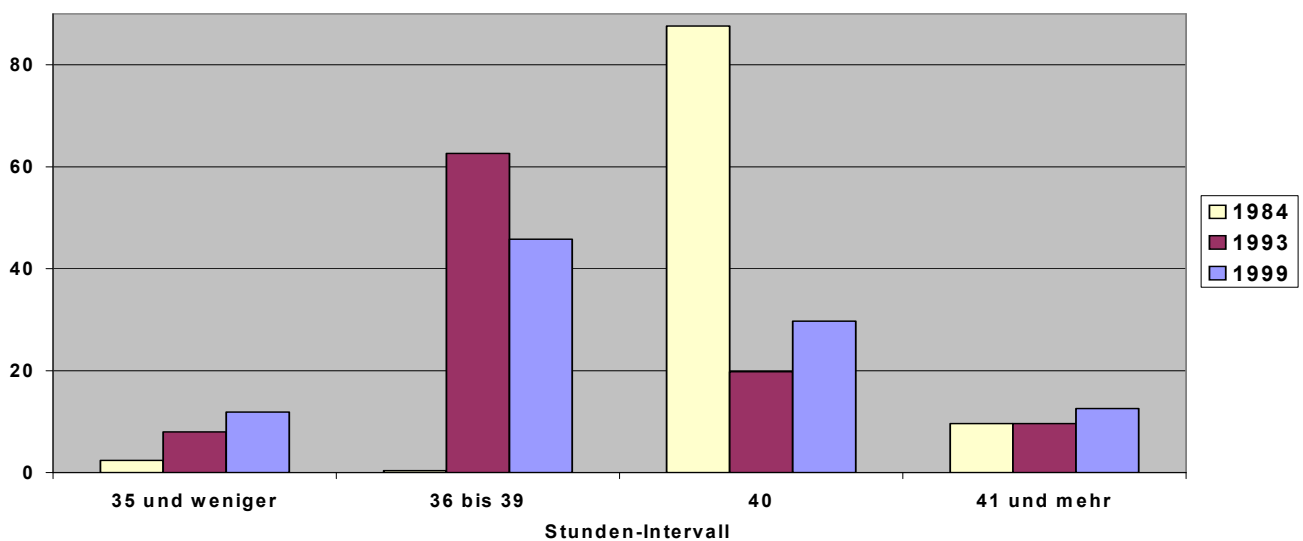
As working times in Western Germany were rising during this period, actual working times in Eastern Germany remained largely stable following a fall in the early 1990s in the wake of collectively negotiated working time reductions. As a result, working times in Western Germany had, by the end of the 1990s, drawn close to the higher Eastern German level, despite the continuing difference of 1.7 hours per week between the collectively agreed working times in the two parts of the country.

As is well known, cyclical evolutions are frequently a vehicle for structural changes. In the case of the – admittedly not enormous – increase in average weekly working time in the second half of the 1990s, there are indications of such a link. Average working times are the product of partially contradictory developments. For this reason, it is useful to look at what lies behind the average figures.

## 2 Changes in working time structures

Let us begin with the question of how the distribution of actual working times among the various hour brackets has changed (Figure 2). In West Germany at the beginning of the 1980s, the 40-hour week was still the norm for actual working times; with the working time reductions, employees working between 30 and 39 hours per week became by far the largest group in the labour force. By the mid-1990s, working times were continuing to fall only among a minority of employees, while for a larger share of the labour force the pendulum was swinging back to the 40-hour week. At the same time, as the Microcensus shows, working times above the 40-hour mark were also beginning to increase again (between 1994 and 2000, the share of all dependent employees working 40 hours or more rose from 8.2% to 10.4%; among men, the share rose from 10.9% to 14.6%).

*Figure 2: Frequency distribution of usual weekly working times of full-time employees (West Germany 1984, 1993 and 1999)\**



Angaben in vH aller Vollzeit-ArbeitnehmerInnen, d.h. n % arbielten gewöhnlich n Stunden pro Woche  
 Quelle: Europäische Arbeitskräftestichprobe Sonderauswertung (Sebastian Schief, IAT)

\* read: n per cent of employees work usually n hours per week

Source: European Labour Force Survey

Working times evolved differently in Eastern Germany. In 1991, only 12.3% of employees usually worked fewer than 40 hours per week; by 2001, that share had risen to 35%. At the same time, the share of employees working more than 40 hours per week fell from 18.4 to 7% (Microcensus).

These structural changes confirm the impression that, for most employees, collective agreements continue to have a decisive influence on working times. In West Germany, this is particularly evident from the meteoric increase since the 1980s in the share of employees working between 30 and 39 hours a week. In Eastern Germany, the share of employees working shorter hours continued to increase throughout the 1990s. In the second half of the 1990s, however, there was an increase in the share of employees in Western Germany whose actual working times diverged from the collectively agreed standards. This is shown not only by the higher share of employees working more than 40 hours per week but also by the general trend towards a return to the 40-hour week as the usual weekly working time.

A second structural comparison concerns the differences between various categories of employees (Table 4).

*Table 4: Usual weekly working times of various categories of full-time employees in Germany*

	1985	1991	1994	1997	2000	2001
<b>West Germany</b>						
All employees (full-time)	41.1	39.8	39.5	40.1	40.2	40.0
<i>Difference men/women</i>	<i>0.5</i>	<i>0.8</i>	<i>0.8</i>	<i>1.1</i>	<i>1.3</i>	<i>1.3</i>
<i>Difference manual/white-collar</i>	<i>0.8</i>	<i>0.8</i>	<i>0.9</i>	<i>1.2</i>	<i>1.1</i>	<i>1.3</i>
<i>Difference high/intermediate qualificational categories</i>	<i>1.9</i>	<i>1.4</i>	<i>1.5</i>	<i>2.1</i>	<i>2.3</i>	<i>2.4</i>
<b>Eastern Germany</b>						
All employees (full-time)	-	40.9	40.4	40.4	40.3	40.0
<i>Difference men/women</i>	-	<i>0.6</i>	<i>0.5</i>	<i>1.1</i>	<i>1.1</i>	<i>1.1</i>

Source: Microcensus

Men in full-time employment work longer hours than women in full-time employment, and the gap has widened in both parts of Germany. The difference was already increasing in West Germany in the 1980s and the trend continued at a slightly faster pace in the 1990s. In Eastern Germany, the gap between the working times of male full-timers and female full-timers virtually doubled within 10 years, almost reaching the West German level. The working times of women in Western Germany rose by only 0.4 hours per week between 1995 and 2000, compared with a rise of 0.8 hours among men.

The remaining structural differences are considerably more pronounced in Western Germany than in Eastern Germany, where in some cases working time structures are decidedly egalitarian. This is why Table 4 shows two additional features of working time structures for Western Germany only. The first concerns the difference between manual and white-collar workers. The two categories benefited more or less equally from the collectively agreed

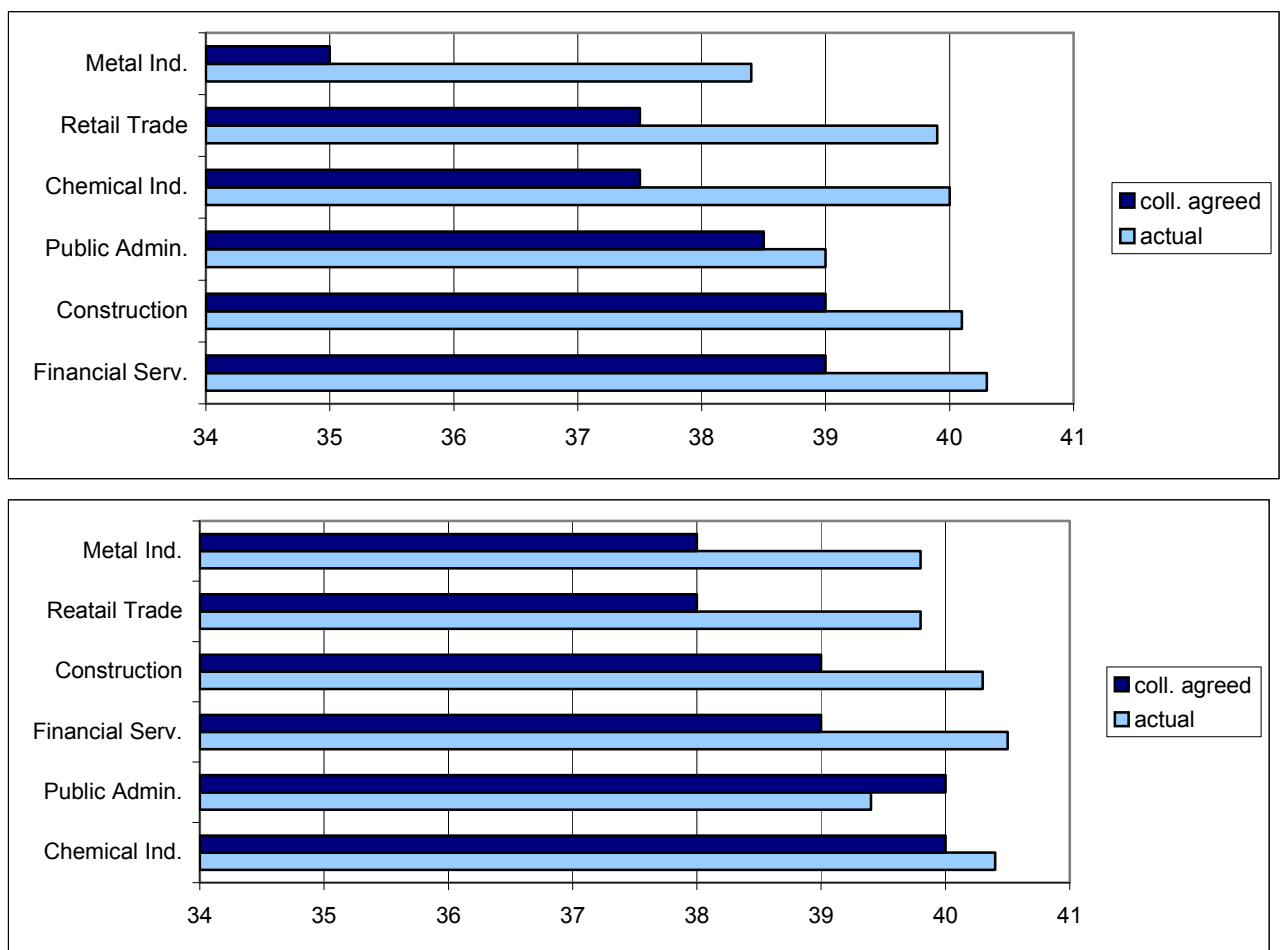


working time reductions that took place up until the mid-1990s. The reduction in collectively agreed working time of around 2½ hours was followed by a reduction in actual working times of around 1½ hours, so that the difference of just about 1 hour between the two groups remained unchanged. However, the increase in working time in the second half of the 1990s affected white-collar workers more than manual workers.

The gap between the working times of highly-qualified employees and those with intermediate-level qualifications has also widened (cf. Schief 2003). It is interesting that highly-qualified employees initially benefited from the working-time reductions. Subsequently, however, they were affected much more than average by the working time increases, while they hardly benefited at all from the minimal average reduction in working time observed at the beginning of the economic downturn between 2000 and 2001.

A third structural comparison concerns the difference between collectively agreed and actual working times at industry level (Figure 3).

*Figure 3: Difference between collectively agreed and actual weekly working times of full-time employees (2001, Western and Eastern Germany, hrs/week)*



Sources: BMWA 2003; Microcensus

The most striking feature here is the relative heterogeneity of the working-time landscape in the metal and engineering industry, which is one of the areas of the German economy that is exposed to particularly fierce international competition. In 2001, the difference between the average actual working time and the collectively agreed working time in the West German metal and engineering industry, at 3.4 hours, was greater than that in the economy as a whole, which stood at 2.6 hours. Comparison with the other industries shown reveals that actual working times are in fact shortest in the metal and engineering industry. However, the divergence from the collectively agreed level is greater in that industry and the gap has widened by more than the average amount since the mid-1990s. In 1985, the average actual weekly working time of full-time employees in the West German metal and engineering industry was 39.7 hours, compared with the collectively agreed working week of 38.5 hours. The comparative figure for manufacturing industry as a whole was 40.2 hours while that for the service sector was 41.7 hours (Microcensus).<sup>iii</sup>

The industry with the shortest collectively agreed working times (with the exception of the printing industry) does, it is true, have significantly shorter actual working times on average than the other major sectors of the economy, but the success achieved by the trade unions in the previous two decades is now confronted by three problems: an above-average divergence from the collectively agreed working time, a particularly wide gap between manual and white-collar workers and a wider than average gap between East and West German manual workers.

The structural problems outlined here may not seem particularly dramatic. True, the main story the data tell is that the majority of dependent employees continue to have their working time effectively limited by the industry-level collective agreements; the effect of the agreements is strongest among manual workers. And yet the weak points are becoming evident. Firstly, it is becoming clear that the declining rate of cover by collective agreements is beginning to have its effects on actual working times. Furthermore, there are symptoms of a certain ‘erosion from within’ (Bispinck/Schulten 2003). Among white-collar workers – and again particularly among those with higher-level qualifications – there are signs that working times are beginning to edge upwards. If this gap between manual and white-collar workers increases still further, then the increasing share of white-collar workers in total employment will lead in future to a widening of the gap between actual and collectively agreed working times in the economy as a whole. The same applies to highly-qualified workers within the white-collar category.

The possibility of further divergence between actual and collectively agreed working times, particularly among white-collar workers, should be taken seriously, particularly in view of the systematic tightening of staffing budgets in many companies on the grounds of fierce international competition and the increasing importance of the financial markets for the management of companies. One effective means of achieving de facto increases in working time might be new, indirect forms of management control of the work process, in which traditional, hierarchical control is concealed behind ‘market constraints’ and it is ultimately left up to employees themselves whether the agreed objective can be achieved within contractual working time (Lehndorff/Voss-Dahm 2004).

As will be shown in what follows, these weak points in working time regulation may become even more significant in future as a result of the flexibilisation of working time.

### 3 From flexibilisation to longer working times?

To some extent, the boundaries between the trends towards differentiation outlined here and the flexibilisation of working time at company or establishment level are somewhat hazy. So much can be concluded from findings on the structural change in overtime and the practical operation of working time accounts. As the employee surveys conducted by the ISO Institute show, paid overtime has been stuck at around the same level since the 1980s, albeit with cyclical fluctuations. On the other hand, unpaid overtime is gradually increasing. There has also been a sharp increase in the form of overtime which, according to respondents, is recompensed at a later date by time off in lieu (Table 5). This structural shift mainly concerns white-collar workers, among whom time off in lieu has now become by far the most important means of recompensing overtime. At the same time, the level of unpaid overtime increases with qualificational level and occupational status; indeed, for white-collar workers in high-skill jobs and with managerial responsibilities this kind of overtime actually predominates (Wagner 2000).

*Table 5: Structural changes in overtime and additional hours in Germany (in hrs.)\**

	1989	1999
Volume of overtime per employee per week	2.0	2.8
<i>of which: paid</i>	<i>1.0</i>	<i>0.9</i>
<i>unpaid</i>	<i>0.4</i>	<i>0.8</i>
<i>with time off in lieu</i>	<i>0.6</i>	<i>1.1</i>

\* 1989 West Germany only

Source: Bundesmann-Jansen et al. (2000)

So how realistic is the assumption that overtime credited to working time accounts is actually converted into time off in lieu at a later time? It should be remembered, firstly, that by no means all company agreements on working time accounts contain express provisions on the period within which any additional hours worked have to be recompensed (Bellmann/Ellguth/Promberger 2003: 29). Yet even when such provisions do exist, they are not necessarily put into effect in all cases. As an ISO company survey found, only 14% of companies with working time accounts always keep to the agreed period for balancing accounts. However, when this balancing period is exceeded, only 12% of firms (with 20 and more employees) take measures to reduce the accumulated working time credits within a short period of time. In most companies, according to managers, the excess time credits are either recompensed monetarily (29%), simply allowed to remain on the account (21%), occasionally transferred to long-term accounts (5%) or, in 20% of companies, allowed to lapse without compensation of any sort (Bauer et al. 2002: 164). By no means the least significant aspect of these findings is that this can largely take place within the framework of the industry-level collective agreements.

Taken as a whole, these findings reveal a grey area in working time regulation. True, paid overtime is declining slightly, but unpaid overtime and overtime recompensed with time off in lieu are on the increase. Moreover, some of the overtime recompensed with time off in lieu is subsequently converted, surreptitiously and retroactively, into paid or even unpaid additional hours. In short, this means that the boundaries between the flexibilisation and extension of working time are in some cases becoming hazy. It can reasonably be assumed that this is contributing to the trend, already noted above, towards a gradual undermining of working time regulation, particularly among white-collar workers.

#### **4 Summary and outlook**

Our findings are somewhat contradictory. For many dependent employees, collective agreements continue to provide reliable protection against employers' attempts to extend actual working times. However, there are some initial indications that the effectiveness of collective agreements is gradually diminishing.

- The weekly working time of male white-collar workers, particularly those with higher-level qualifications, is to some extent becoming disconnected from the collectively agreed norms.

- It is true that, of the major areas of economic activity, the metal and engineering industry, which is exposed to fierce international competition, has the lowest average actual working times. At the same time, however, the gap between actual and collectively agreed working times in that same industry is particularly wide, as is that between manual and white-collar workers.
- The boundaries between working time flexibilisation and working time extension are becoming blurred in some cases, particularly as a result of new forms of corporate and work organisation.
- Many employees are taking advantage of the opportunities for 'time sovereignty' opened up by new working-time systems; individually, however, they can do little to counter the trends towards 'market-driven' forms of work and working time organisation.

Ever more responsibility for the effective limitation of working time is being placed on the shoulders of works councils and individual workers. However, this should not be interpreted solely as an indicator of the erosion of the system. Millions of workers are confidently using their working-time accounts in order to manage their own working time. The more crucial flexible working-time management at company level becomes, the more important it will become for works councils to play an active role and accept responsibility in the policy sphere. Many works councils have already developed a high level of competence in matters of working-time policy. There are interesting experiences at company or establishment level that show how works councils are actively growing into this new role and using company agreements in order to publicise and politicise working-time disputes (c.f. Thomas Haipeter's contribution to the present conference). This reveals the extent to which indirect management control is forcing works councils to rethink their approach to interest representation and indeed their entire self-concept. The traditional and widespread practice of representing employees' interests stands in sharp contrast to an approach based on 'helping workers to help themselves'.

Thus works councils are increasingly functioning as an anchor of the system of working time regulation; however, the support offered by the environment in which they are operating is growing weaker all the time. The trade unions' ability to influence working time policy has diminished appreciably. As a result of high unemployment, the major problems in Eastern Germany, international locational competition and an economic and financial policy that draws heavily on neo-liberal models, the economic pressure on employees, works councils and trade unions has increased to such an extent that the unions have in effect put their policy

of seeking general working time reductions on ice (for a more detailed survey, see Lehndorff 2000). Moreover, in the spring and summer of 2003, the attempt by the metal and engineering workers' union, IG Metall, to bring the collectively agreed working time in Eastern Germany down to the West German level ended in a dramatic defeat.

Many firms are now pushing to extend their room for manoeuvre still further. The employers' associations are demanding that deviations from collective agreements should be permissible by means of company agreements or workplace ballots without the parties to the collective agreement having to give their assent (BDA 2003).<sup>iv</sup> Essentially, the objective is to call into question the agreement of binding minimum standards on which the system of regulating employment and working conditions through collective agreements has hitherto been based.

In the collective bargaining round in the metal and engineering industry at the beginning of 2004, the employers' associations were unable to prevail in this matter. Deviations from the minimum standards laid down in the collective agreements still have to be agreed with the trade union. Consequently, as the year has gone on, the trade union has been the target of direct pressure exerted by individual large companies. These disputes reached their peak, for the time being at least, with the agreement concluded between Siemens and IG Metall on the introduction of the 40-hour week in two assembly plants; the employers' efforts to push through the agreement were accompanied by a threat to shift production to Eastern Europe. However, it is already becoming clear that it may be more difficult for other companies to follow Siemens' example, because in IG Metall's view further agreements of this kind would be likely fundamentally to call into question the whole principle of industry-wide collective agreements, albeit to some extent indirectly.

From the trade unions' point of view, further threats to the future of collective bargaining have arisen in an unexpected quarter. Many public-sector employers, starting with the Federal Government and virtually all the state governments, have increased working time for established officials during 2004 and terminated the collective agreements on working time in order to increase the working times of manual and white-collar workers to the now higher level of established officials. In contrast to the private sector, these measures have not been taken in order to safeguard jobs but rather out of a need to make savings on personnel costs in view of tight public budgets. Although the collective agreements remain in force for existing employees until further notice because they were terminated unilaterally, new recruits are already being appointed on the less favourable conditions. To date this has applied mainly to those on fixed-term contracts. In the long term, however, this situation may well lead to

collective agreements ‘bleeding to death’ if the parties to collective bargaining are unable to conclude a new agreement.

It is true that bargaining cultures can differ considerably from sector to sector (Behrens/Jacobi 2004) and that past years have seen some notable developments in the substance of collective bargaining (Bosch 2004). Nevertheless, it is also the case that the trend towards a hardening of disputes has begun to affect such traditionally cooperative bargaining cultures as that in the chemical industry. In the light of the developments outlined here, therefore, it can reasonably be concluded that the German trade unions are at an important juncture in their development, not only with regard to their future working-time policy but also their entire policy on the evolution of the collective bargaining system. A regime change involving a gradual break-up of the collective bargaining system can no longer be excluded. At the same time, the current crisis is so deep-seated that it may release new forces that will lead to a renewal of the system.

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## Notes

<sup>i</sup> It is true that part-time work also affects the regulation of working time through collective agreements, because one of the consequences of the increase in part-time employment is that a smaller share of dependent employees have their working times directly limited by collective agreements. Incidentally, part-time employment can also be seen as reflecting a desire to escape full-timers' working hours, which are perceived as excessively long. However, any investigation of how effective collective agreements are in *limiting* working time must focus on the hours worked by those employees who classify themselves as full-time employees.

<sup>ii</sup> In what follows, I draw on analyses of Microcensus data by Alexandra Wagner (Forschungsteam Internationaler Arbeitsmarkt, Berlin) and of the European Labour Force Survey by Sebastian Schief, IAT. The measurement of actual working times is beset by methodological problems. The problems begin with the precise formulation of the question and its position in the questionnaire. Thus whether or not a previous question has been asked about the agreed working time influence the estimated level of actual weekly working times. The answer also depends on whether a question has been expressly asked about overtime (Schief 2003). On the methodological problems of measuring working time using the example of the European Labour Force Survey cf. also Bruyère/Chagny (2002) and Robinson et al. (2002). One important reason for these difficulties lies in the subject itself: it is becoming increasingly difficult for employees nowadays to give a precise answer to the question of how many hours they usually work each week. For many employees, the flexibilisation of working time has made their weekly working hours a genuinely abstract value. What counts, and what is actually being measured, is the 'feeling' of those surveyed. From a pragmatic point of view, the feeling of those affected is the surest indicator. However, the lack of precision and the underlying issues should be borne in mind..

<sup>iii</sup> Furthermore, the collective agreements covering the metal and engineering industry have the peculiarity of making express provision for the differentiation of working time by stipulating that longer individual working times can be agreed with a certain percentage of a company's workforce. In 2002, 88% of firms in the metal and electrical engineering industry were already making use of this provision, while 62% of firms stated that they had used up their quota 'and would like it to be raised still further' (Gesamtmetall 2002). A comparable measure has been introduced in the Dutch banking industry, where a reduction in working time to 36 hours per week was accompanied by greater provision for the differentiation of working time at company level (Tijdens 2001).

<sup>iv</sup> It must be remembered that, in the German industrial relations system, works councils are legally obliged to cooperate; only trade unions have the right to strike. Company agreements between management and works councils in Germany must not, therefore, be confused with company agreements between management and trade unions, which exist in many other countries. However, collective agreements concluded between management and trade unions at company or establishment level are becoming increasingly important in Germany as well. However, the employer initiative alluded to is not intended to encourage the use of this instrument.