

Decentralised bargaining of working time in the German automotive industry

Thomas Haipeter and Steffen Lehndorff

ABSTRACT

The article addresses the question whether or not the trend towards the decentralisation of collective bargaining on working time in Germany entails a loss in the binding power of industry-level agreements. To this end, both working-time agreements and practices are examined at the firm or establishment level in the automotive industry. Additionally, the article examines the extent to which workplace micro-level changes are reflected in official statistics. The findings indicate that unions and works councils have taken on new roles preventing a widespread erosion of collective regulations.

INTRODUCTION

Is the German industrial relations system being dismantled or restructured? The direction of the current changes is difficult to discern (Tüselmann and Heise, 2000). Bosch (2004) adopts a cautiously optimistic view. For him, the industrial relations system in Germany is going through a process of major reform, so much so that he compares it to an 'enormous building site'. More pessimistic commentators suggest that the traditional interaction between collective bargaining and workplace codetermination is being undermined (Hassel, 1999). For Bispinck and Schulten (1998), this process of erosion has two distinct aspects. What they call 'external erosion' is reflected in the declining membership 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 level and in the decreasing binding power of collective agreements.

The trend towards external erosion can hardly be disputed. Between 1996 and 2001, collective bargaining coverage in western Germany fell from 69 per cent to 63 per cent of employees; in eastern Germany, it fell from 56 per cent to 44.4 per cent (Kohaut and Schnabel, 2003). Furthermore, below-average coverage is found particularly in small and newly established companies, both of which are growing segments. However, there remains a large and stable core, and the binding power of collective agreements

□ Thomas Haipeter is a researcher in the research unit Working-Time and Work Organisation at Institut Arbeit und Technik, Gelsenkirchen, Germany. Steffen Lehndorff is head of the same unit. Correspondence should be addressed to Thomas Haipeter, Institut Arbeit und Technik, Munscheidstr. 14, D-45886 Gelsenkirchen, Germany; email: haipeter@iatge.de

is greater than these figures suggest: company-level agreements are becoming increasingly important and many firms, not bound by collective agreements, continue to use them as reference points. However, the trend remains unmistakable and the identified erosion was underscored particularly dramatically in eastern Germany in the summer of 2003 by the failure of the strike in favour of the 35-hour week called by IG Metall, the engineering and metal workers' union. Preliminary research results on the effects of these developments on working conditions, particularly in eastern Germany, are now available (Schmidt *et al.*, 2003).

What is still largely unclear, however, is whether, and in what ways, the so-called internal erosion of the collective bargaining system is reflected in actual working conditions. This is the question addressed here. Does the shift of regulatory content from the industry level to the firm level mean that regulations are losing their binding power? Working-time regulation can sensibly be used as a starting point for addressing this issue because, apart from wages, working time has traditionally been the most important object of regulation in the German industrial relations system. Working time is negotiated on two levels. Industry-wide collective agreements contain provisions on the duration, scheduling and distribution of working time. Negotiations at company level, involving the works councils, determine the actual details of working-time systems in firms and establishments, with due account being taken of the provisions of the relevant industry-wide collective agreement.

Germany today has some of the more flexible working-time arrangements in the European Union (Euro On-line, 1998). Collective agreements on working time gradually gave the actors in the workplace increased scope for bargaining and thereby helped to make the firm or establishment an important locus within the German industrial relations system for regulation through collective bargaining (Schmidt and Trinczek, 1999). Consequently, any 'internal' erosion of the binding power of regulations should be reflected primarily in the regulation of working time at the firm or establishment level.

In what follows, the consequences of the shift of regulatory content from the industry to the firm level, and in particular the possible decline in the binding power of regulations, will be discussed in two stages. We begin at the firm or establishment level. This is the locus for negotiations between companies and works councils also experiencing institutional erosion [in the year 2000, 63 per cent of all employees in the engineering and metalworking industries were working in a plant with a works council, compared with 77 per cent 20 years previously (Beyer *et al.*, 2002: 13)]. This level is investigated through the example of the automotive industry, for which IG Metall still serves as a model in terms of trade union influence and the operation of the workplace bargaining system. The reason for choosing this particular industry is quite simple: if IG Metall's flagships succeeded in establishing forms of 'regulated flexibility' at workplace level, then this would give some indication about how the internal erosion of the collective agreement system might be countered. If, on the other hand, there were blank areas in the workplace regulation of working time, even in a highly regulated industry like the automotive industry, then they would probably constitute the tip of an iceberg and would be symptomatic of the experience of the wider economy.

The empirical evidence collected at the workplace level leads us, secondly, to the macro level, where we examine as to what extent micro-level observations are reflected in official working-time statistics in Germany.

THE CASE OF THE AUTOMOTIVE INDUSTRY: TOWARDS REGULATED FLEXIBILITY?

For more than a decade, German car makers have been setting the pace in working-time flexibilisation in German manufacturing. It must be noted, however, that this process is taking place in what is, even by German standards, a particularly tightly regulated industry. Trade union density in the automotive industry, particularly in the large car assembly plants, is high; works councils have a relatively high degree of influence, and the motor manufacturers are, without exception, covered by the engineering and metalworking industry collective agreements (or, in the case of Volkswagen, by a separate company collective agreement). Moreover, the changes in industrial relations are very closely linked to a process of fundamental restructuring within this industry, which we will briefly outline.

THE 'BREATHING FACTORY'

As recently as the early 1990s, traditional mass production still characterised the work organisation practices of European motor manufacturers; however, since the recession of the early 1990s, which marked a major turning point, all the motor manufacturers have been making greater efforts to reorganise the value-added chain (cf. the example of VW discussed in Haipeter, 2000). The main objects of this reorganisation concern the central pillars of Taylorist mass production, such as functional compartmentalisation, multi-layered hierarchies and bureaucratic processes. At the same time, the forms and content of the regulatory apparatus of that era, including working-time regulation, are also going through a period of upheaval.

The working-time regulations put in place during the heyday of Taylorism largely protected employees against the vagaries of the market. At the same time, they offered employers a stable and reliable framework for the organisation of mass production (Thompson, 1967). The long-established compromise on working-time regulation is being increasingly challenged for two reasons. First, firms are at pains to recast the regulations in such a way that they can use them to link production as closely and inexpensively as possible to market fluctuations. Second, organisational change is gradually cutting the ground away from certain forms of regulation that require hierarchical decision-making structures on both sides of the dividing line. The paradigm in this respect, now a widespread management practice, in the automotive industry is the concept of the 'breathing factory' developed by VW's director of personnel, Peter Hartz (Hartz, 1996). The principle on which motor manufacturing is now based is no longer the mass production of standardised models but rather the production of as great a diversity of models as possible, with flexible adjustment to market fluctuations.

At the heart of the wide-ranging reorganisation efforts being undertaken by motor manufacturers is the adoption of a market-driven approach to internal processes. Notions such as process orientation, segmentation, platform or modular strategy, just-in-time production, target costing, sourcing and networking have two basic characteristics in common: the individual stages of the value-added chain operate relatively independently of each other and are brought face to face with external and internal competition (Lehndorff, 1997). One of the distinguishing features of a market-driven approach is the combination of operational decentralisation and strategic centralisation. Decentralised units operate autonomously in the market but do so under

centrally defined conditions in the form of yield or cost targets. These conditions are determined—to varying degrees and in varying proportions—by the demands of product markets and the expectations of financial markets (Haipeter, 2002; Kädtler and Sperling, 2001). This new form of indirect management control exposes decentralised units and individual employees within them to a new kind of pressure to compete and to increase returns on capital. Competition between sites becomes a permanent challenge. Within such a competitive environment, production flexibility and hence working-time flexibility become decisive factors. Intense competition between sites exerts pressure on the factory to ‘breathe’, that is, to be elastic in its response to fluctuations in demand. This is reflected in a number of flexible working-time models that have been agreed for automotive body shops and assembly plants in Germany.

Thus, the aim of the ‘breathing factory’ is to effect a paradigm shift in working-time regulation. If regulation is to play any role at all now that the market has become a factor in production management, it can do so only by regulating flexibility. However, this presents trade unions’ working-time policy with some fundamentally new challenges.

THE REGULATORY FRAMEWORK

In the automotive industry, as in other parts of the German engineering and metalworking industry, the structures of working-time regulation have been changing over the past two decades. The gradual move towards the delegation of regulatory competencies to plant level (managing directors and works councils) has been most pronounced in the case of collective agreements on working time. This development has its roots in the concessions IG Metall made to employers in the wake of collective agreements on gradual working-time reductions. Alongside the reduction of working times, these concessions were extended step by step until, by the mid-1990s, the goal of the 35-hour week was reached. There were three main issues at stake:

- The proportion of the workforce in a plant or at a site with whom weekly working times in excess of 35 but not exceeding 40 hours could be agreed in individual contracts; this was eventually fixed at a maximum of 13 per cent or, in some collective bargaining regions, 18 per cent.
- The definition of the ‘equalisation’ periods over which individual weekly working times have to average out to the collectively agreed norm. In the majority of collective bargaining regions, the equalisation period is six months. However, additional collective agreements have extended the period to one year, thereby introducing a *de facto* annual working time. If the parties to collective bargaining agree, this period can be extended to two or even more years.
- The delegation of regulatory competencies in matters of working-time organisation to the firm or establishment level, where the concrete implementation of collectively agreed flexibilisation measures is to be negotiated.

Since the mid-1990s, the use of these measures to vary and differentiate working time has increased considerably in the German engineering and metalworking industry (Herrmann *et al.*, 1999). In the process, many new flexible working-time systems have been introduced in production departments. For example, at *VW Wolfsburg*, the

original reduction to 28.8 working hours agreed in 1993 was gradually changed in the years thereafter to a system with variable working times between 28.8 and 38.8 hours per week. The duration of working time and the shift system are laid down from time to time in plant-level agreements. A further source of flexibility lies in the fact that overtime (Monday to Friday) does not attract premiums until the 35-hour week has been reached. On this basis, a working time of 28.8 hours per week was agreed for Wolfsburg in 1998 (4×7.2 hours), supplemented by regular and compulsory overtime on the fifth day. This produces a *de facto* working week of 36 hours within a two-shift system, with an additional permanent night shift. When capacity requirements fall, agreement has to be reached first on dispensing with the Friday shifts. At *Opel Rüsselheim*, the basic agreement allows the contractual working time to be distributed over four or five days of the week depending on capacity requirements, although any changes to working time must be announced two weeks in advance. As a result, working time for production workers may range between 31 and 38.7 hours per week. Their working time must be averaged out to the contractual 35-hour week within one year. Should this not be possible, for example for operational reasons, then the averaging out must take place 'at the next possible date'. In reaction to a sales slump, a recent supplementary agreement (cf. Beigel, 2004) reduced working times in production departments to 30 hours (32.6 hours paid). The simultaneous introduction of three-shift operation allows for a rapid extension of operating hours whenever required in the future. Under the shift arrangements in place at *Daimler Chrysler Rastatt*, each of the three shift crews regularly works six early shifts (including Saturdays), five late shifts and two night shifts (Thursday and Friday). The number of night shifts can be increased up to four in a week and 13 in a year. The time credits thus accumulated are paid off within two years by giving workers free night and Saturday shifts; these free shifts may either be collective or individual. The shift schedule is agreed every quarter by management and the works council. At *BMW Munich*, the design of this two-shift system, with a shift length of 8 hours and 35 minutes (plus an unpaid meal break) and a four-day week for individual workers, means that actual weekly working time is less than 35 hours. As a result, time credits of half an hour a week accrue to the company on a systematic basis, and employees have to pay off their time debts by working occasional 'equalisation shifts'. Some of these shifts (four in three years) may be scheduled on Saturdays without the payment of premiums. They may also be saved up for several years in order to provide the increased manning levels required when new models go into production.¹

THE RESEARCH

In 2000 and 2001, we conducted a survey of all German motor manufacturers in order to investigate the implementation and outcomes of working-time regulation in the workplace.² In what follows, we look first at the measures used to *vary* working time before turning to those used to *differentiate* working times.

¹ These examples are taken from the Institut Arbeit und Technik automotive industry survey. Please refer to references for details.

² Our study was conducted with the support of the engineering and metalworkers' union, IG Metall, and of the motor manufacturers' works councils. It was based on a standardised survey of works councils, which drew on data compiled by the personnel departments of the firms in question, and supplementary interviews with individual works council members at all car manufacturers established in Germany (Haipeter and Lehndorff, 2002).

Flexibilisation of working times in production areas

The flexibilisation of working times in the automotive industry has not led to general deregulation; rather, it has brought forth new forms of regulation at firm or establishment level. They involve the use of working-time accounts, which serve as a bank for hours worked above the contractual norm in order that they can be converted into time off in lieu at a later stage. According to our survey, considerably greater use is made of working-time accounts in the automotive industry than in the rest of manufacturing. With the exception of the east German Opel subsidiary in Eisenach and a few areas within individual plants, all employees are involved in some kind of account system.

Although today's accounts have their origins in the flexitime arrangements that were introduced for white-collar workers in many German automotive companies in the 1980s and early 1990s, they have now evolved into something quite different. First, they are as widely used for production workers as for white-collar workers. Second, they are differently organised and have different objectives. Mandatory attendance times have been reduced or abolished altogether, equalisation periods have been extended to the very limits of what is stipulated in collective agreements and, in some cases, account balance limits have been increased considerably. More importantly, working-time accounts are now an integral part of companies' flexibility strategies. The flexitime arrangements of the 1980s were unrelated to companies' flexibility interests. Rather, they were intended to increase employee motivation as part of a drive to improve corporate culture. This changed radically with the recession of 1993 and 1994. The use of working-time accounts as instruments of flexibility has now become a fundamental element in companies' strategies for reinventing themselves as 'breathing enterprises'.

At the same time, however, working-time accounts are the key instrument in the collective regulation of flexibility in companies. In all German automotive companies, working-time account systems have been incorporated into the labour relations regulatory apparatus through works agreements concluded between management and employee representatives.

The decisive factor here is the role of the works councils which, with the shift of regulatory competencies from the industry to the firm or workplace level, has become the key factor in collective regulation. Are they up to the task? Or are they themselves the agents of erosion? At first blush, some degree of scepticism would seem to be in order. When accounts are used to record fluctuations in standard working time, the works councils lose the rights to codetermination in respect of overtime that are enshrined in the Works Constitution Act (*Betriebsverfassungsgesetz*). In the traditional regulatory regime, however, codetermination was, and in many cases still is, not only an important factor in establishing the high binding power of the traditional system of working-time regulation, but also a crucial element in the works councils' bargaining power, since they were able to use their cooperation on flexibility to extract wide-ranging concessions from management. However, this bargaining chip has been weakened, if not totally destroyed, by working-time accounts. Thus, the decisive question is whether new workplace codetermination arrangements have been successfully put in place and whether they can adequately compensate for the loss of the bargaining that power works councils used to enjoy.

It has to be said that the regulation of working-time accounts at company level in the automotive industry has been largely successful. The loss of the old forms of

codetermination has been at least partially offset by the emergence of new forms. The earlier forms of regulation were based on the so-called *substantive* arrangements, which required each deviation from the agreed working-time system and every infringement of standard working time to be approved by the works council. The recently developed forms of regulation, on the other hand, are more *procedural* in nature. Two examples will serve to illustrate this. The first is the works council's right of codetermination in respect of the control of working-time account balances, as practised at BMW. There, the plant management and the works council regularly agree on binding targets for the evolution of production workers' time accounts. The second example is the definition of intervention points for the works council. Such agreements have been put in place at Audi and at Opel Rüsselsheim. They take the form of a 'traffic-light' arrangement, which constitutes a multi-tiered balance control procedure, in which the works council becomes involved as soon as agreed balance limits are exceeded. The common feature of these agreements is that they stipulate 'thresholds' that bring works councils' codetermination rights into play on a new platform beyond the Works Constitution Act.

Are there any signs that this delegation of working-time regulation to the company level has reduced the effectiveness of collective agreements in restricting working time in automotive plants? The data on paid overtime and on working-time account balances do not show any systematic deviations of the actual from the contractually agreed working times in the production areas of the German car industry. Longer actual working times are found only in particular cases, for example, in bottleneck areas or specialist workgroups. In some plants, the paint shops are affected; in others, it is the maintenance departments. Overall, however, actual working times are within reach of the contractually stipulated levels. Moreover, the level of paid overtime is somewhat below the average for the economy as a whole of around 60 hours per year (figures for the year 2000). Even the figures on accumulated time credits do not suggest that there has been any significant increase in working time. In the case of Opel's main plant at Rüsselsheim, the accounts in the production department actually show considerable deficits, which have been allowed to accumulate in order to avoid short-time working.

As far as production workers are concerned, therefore, regulated flexibility, with its new forms of codetermination, seems to be functioning very well. In any event, there is no evidence that the devolvement of working-time regulation to the company level has led to any erosion of the regulatory apparatus.

The picture in white-collar areas is different, however. If systematic problems in the development of working times and working-time regulation can be detected at all in the automotive industry, then it will be in non-production areas. Codetermination in such matters is less highly developed there than in production departments, although the legal framework is no different. Account also has to be taken of the opportunities the collective agreements offer for extending individual working times. It is to these problem areas that we now turn.

Differentiation of working times among white-collar employees

The umbrella agreements covering the metalworking and electrical industries stipulate the share of the workforce in any one establishment that is allowed to enter into employment contracts permitting increased weekly working times of up to 40 hours. The quota is fixed at 13 per cent or 18 per cent, depending on the collective bargaining

region. At the beginning of the 1990s, this differentiation measure was rarely used (Promberger and Trinczek, 1993); now, however, a strong trend towards increased use of these individually agreed working times is emerging throughout the engineering and metalworking industry (Herrmann *et al.*, 1999).

In some cases in the automotive industry, the use of differential working times has gone beyond the collectively agreed limits. It is in administration and development centres, with their huge number of white-collar employees, that the use of differential working times is most pronounced. At Daimler Chrysler headquarters, for example, almost 40 per cent of workers had a contractual working week of 40 hours in the year 2000. At the Porsche development centre, the rate was a good 32 per cent, while at BMW's headquarters in Munich, it was well over 21 per cent.

It is precisely in those areas in which the contractual 35-hour week has in any case only limited currency that the already higher individual contractual working times are most frequently exceeded. The evidence pointing in this direction includes the expiry of 'surplus' credits on working-time accounts at Daimler Chrysler and Porsche, the monetary remuneration of such 'surpluses' (instead of conversion into time off in lieu) at BMW or the accumulation of credits beyond the stipulated limits at Opel. The development centres always head the league table when it comes to working times in excess of the contractual norm.

The trend towards increased working time among white-collar workers has many different causes. Traditional attitudes—higher incomes, status enhancements, climbing the corporate ladder—are still very much alive and are often encouraged by the working-time cultures that managers experienced in the past. In some cases, these factors are further compounded by shortages of skilled workers, which make longer working times seem unavoidable. However, the heart of the problem must lie in the continuing systematic constraints on personnel budgets, which, it is argued, are necessary because of global competition and the increasing importance of financial markets for company management. Given these external constraints, project work, particularly in development centres, may be subjected to considerable time pressures, so that increases in individual working time become a sort of control valve. Finally, it should be borne in mind that, in economically difficult times, firms try to bring as many attractive products as possible to market as quickly as possible, so that the volume of work in development centres rises, contrary to the trend in production departments. All these factors conspire to produce an environment in which the 'responsible autonomy' (Friedman, 1977) employers have granted to their workforce may cause 'more pressure through reduced coercion' (Peters, 2001) and induce employees to increase their working times on their own initiative.

Against this background, the problematic nature of the opportunities for extending working time through the negotiation of individual contracts becomes evident. The problem with the stipulated shares is not primarily that the limits might be exceeded, since this can be detected at individual locations. More importantly, the differentiation clause contained in the collective agreements does not provide for any regulatory mechanism based on negotiations. The works councils and trade unions play no part in the process. By giving precedence to *individual* over *collective* contractual arrangements, the quotas encourage the gradual erosion of working-time norms in white-collar areas. This considerably reduces the binding power of collective agreements in all areas where the trade unions have traditionally not been very strong, as is the case among white-collar workers.

Thus, the 35-week is relativised in two ways. First, the 40-hour week is imposed as a *de facto* reference point. In some cases, moreover, it is regarded as a minimum, rather than a maximum, working time. Second, the importance of collectively agreed working-time regulations is undermined. This does not always lead immediately to working-time increases beyond the *de facto* 40-hour norm, but it does open the doors to self-organised increases.

Comparison of the effectiveness of working-time regulation in blue-collar and white-collar areas of the automotive industry highlights the importance of workplace codetermination as a possible barrier against a general decrease in the binding power of collective agreements. At the same time, such comparison also shows that codetermination is increasingly faced with the fundamental problem of establishing a new basis in a workplace reshaped by indirect management control. Just how far the strategic challenges facing works councils and trade unions can extend is shown by a new agreement concluded between Volkswagen and IG Metall. We were unable to investigate its practical implementation in the course of our project, but our account would be incomplete if we did not draw attention to this pioneering attempt to reshape collective bargaining policy in the German automotive industry.

Codetermination exposed to global competition

The collective agreement concluded in September 2001 between IG Metall and Volkswagen for 'Auto 5000 GmbH', a separate company on the Wolfsburg site that manufactures a new vehicle, is the most highly developed example of flexible regulation to date. The agreement has become known as the '5,000 × 5,000 agreement', as it stipulates that 5,000 job seekers should be hired for a flat-rate payment of 5,000 DM (2,500 euros) per month. The agreement contains certain concessions by the trade union, such as a further flexibilisation of working time, including regular Saturday working time if needed, and wage settlements below the level of the VW company agreement. On the other hand, the collective bargaining system for Auto 5000 GmbH is a pilot project involving reforms at all levels of the organisation, from the introduction of a decentralised organisational structure to the establishment of the key elements of an innovative form of work organisation based on semi-autonomous work groups. This was linked to a substantial extension of process-oriented codetermination procedures.

The complexity and, from the trade union's perspective, double-edged nature of this new system of codetermination are evident from the notion of 'value-adding working time' that has been incorporated into the agreement. It denotes time that is spent productively, in the sense of achieving the desired result. In concrete terms, it is defined in the collective agreement in such a way that the time required to remedy faults is not time that has to be paid for if the shortcomings are the employees' fault. This obligation to work unpaid overtime is linked to an internal dispute resolution mechanism, since it has to be ascertained by the two sides in the workplace who is responsible for particular faults. Thus, the works council enjoys rights of codetermination in this respect as well. However, if it is borne in mind that there are perhaps just a few companies in Germany with as highly developed a negotiating and codetermination culture as VW, then it is clear that this agreement has brought to the fore a highly controversial topic for the trade unions.

Another sensitive issue that is equally awkward to deal with is the notion of 'programme orientation', which denotes a multi-stage system of agreements on targets

leading from the business unit right down to individual production teams. This has initiated a particularly far-reaching shift in, and perhaps even an extension of, co-determination in exchange for flexibilisation. The collective agreement makes provision for production schedules to be agreed between management and the works council. The actual composition of the teams is also agreed between the two sides, with the teams themselves also having the right to take part in the discussions. Thus, the works council has acquired new rights of codetermination in respect of both capacity management and personnel deployment. The participation rights accorded to work teams and the right of complaint that individual employees now enjoy have extended representative and direct codetermination in a hitherto unknown way. At the same time, involvement in the management of both scheduling and personnel deployment gives the works council a lever with which to combat negative developments in working time.

The works council's involvement in capacity and personnel management extends codetermination to the organisation of company processes and goes far beyond the limits of the Works Constitution Act. This has also created new channels for settling working-time disputes between management and workforce. At the same time, however, it should be borne in mind that this also fundamentally changes the nature of working-time policy and working-time regulation. Codetermination in this area may increasingly be caught up in the competitive struggle between individual sites and the setting of targets for return on capital. A trend that has been evident in the policy of many works councils for a long time is being institutionalised to a certain extent. For this reason, the new opportunities for extended codetermination are, for trade unions and works councils, inseparably linked with the risk of increasingly direct exposure to competition in the global market.

What do our findings in the automotive industry tell us about the prospects for working-time regulation in the German economy as a whole? To answer this question, we now turn to the data on working time provided by the official statistics.

How effective are collective agreements in restricting working time?

One fundamental indicator of the effectiveness of collective agreements in restricting working time is actual working time. True, the measurement of working time raises a whole host of methodological problems, but the different representative surveys carried out in Germany with variously formulated questions produce a similar picture of the trends.³ We confine ourselves in what follows to a few highlights.

³ The data on average *actual* weekly working times provided here draw on a special analysis by Sebastian Schief of the Institut Arbeit und Technik, European Labour Force Survey (ELFS). The ELFS is based on a sample of the German Federal Statistical Office's micro-census, in which employees were asked about the number of hours they usually work each week. Since we are interested in the effectiveness of working-time regulation through collective agreements, our analysis is restricted to the data provided by dependent full-time employees. The average actual working times of *all* workers are falling continuously, since the part-time rate is still rising in Germany and the average working time of part-timers is declining (primarily because of the increasing number of marginal part-time jobs). Moreover, because of the special problems of east Germany, our data analysis is confined to west Germany, which also makes it possible to put together a longer time series. On the methodological problems of working-time measurement cf. among others, Bruyère and Odile (2002) and Robinson *et al.* (2002). The data on *collectively agreed* working times are taken from the statistics on collective agreements gathered by the Federal Ministry of Labour and represent the average of all employees covered by collective agreements in the Federal Republic of Germany.

Lengthening and differentiation of actual weekly working times

In the mid-1980s, the trade unions in many industries in the Federal Republic of Germany made considerable efforts to bring collectively agreed working time below the then almost universal 40-hour limit. However, it was only in the engineering and metalworking industry and the significantly smaller printing industry that the goal of the collectively agreed 35-hour week was finally achieved in 1995. Since then, average collectively agreed working times in western Germany have remained unchanged. In eastern Germany, the 1990s saw a few smaller collectively agreed working-time reductions, but adjustment to the west German level has not yet been achieved in any industry.

A comparison of collectively agreed and actual working times shows that the average actual working times of full-time employees in western Germany do indeed fluctuate over the economic cycle but that the medium-term trend was downwards for as long as collectively agreed working times were being reduced. Since these collectively agreed working-time reductions came to a halt, actual working times have been stagnating. Indeed, a certain counter-trend towards an increase in the average weekly working times of full-timers has emerged. The turning point came in the mid-1990s. Since then, the actual working times of full-time workers have been drawing closer to the higher eastern German level (Figure 1).

Economic developments in the mid-1990s were probably one of the main driving forces behind this increase in working time. At the beginning of an upturn, firms usually resort to overtime first before recruiting new workers. The new element in the current cycle, however, is that this initial increase in working time continued over the entire growth phase of the cycle and that average working time has begun to fall only recently as the economy has started to flag. Unlike in the economic upturn of the 1980s, the trade unions were unable this time to counter the increase in actual working times through collective bargaining on working-time policy.

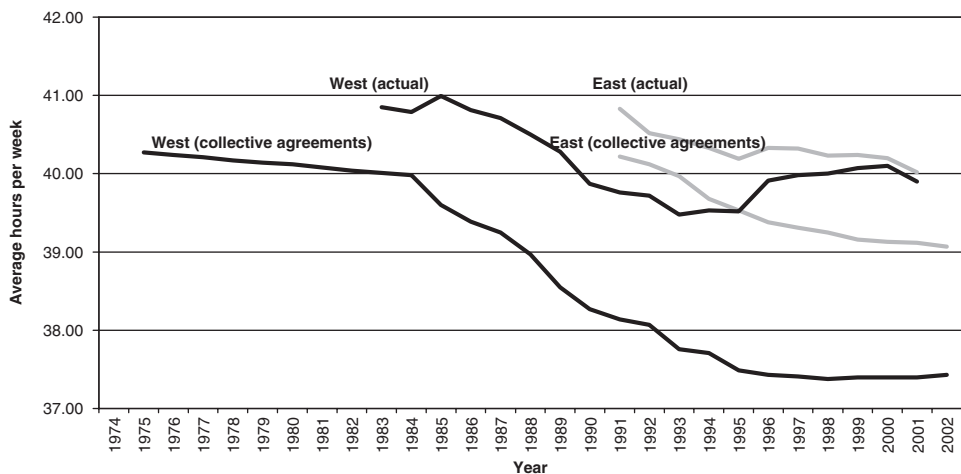


Figure 1: Evolution of the average collectively agreed* and actual weekly working times of full-time employees in the Federal Republic of Germany (hours per week)

*Average of all workers covered by collective agreements.

Sources: BMWA (2003); European Labour Force Survey.

However, it may be that rather more is concealed behind these average figures. As is well known, cyclical developments in the economy are frequently a vehicle for structural changes. In the case of the (admittedly not enormous) increase in average weekly working times in the second half of the 1990s, there are some indications that such a link exists. As we show below, this link manifests itself in two phenomena. The first is increased working-time differentiation, and the second is the emergence of a 'grey area' between working-time flexibilisation and working-time increases.

As regards the differentiation of working times, it has to be noted that the average working times of full-time employees are the product of partially contradictory trends in the importance of individual time brackets. Concurrently with the latest collectively agreed reductions in working time, the share of dependent full-time employees with an actual weekly working time of up to 35 hours has increased. At the same time, however, the share of employees with an actual weekly working time of 40 hours and of those with more than 40 hours has also gone up (Table 1).

Despite the changes in the distribution of employees among the various time brackets, collective agreements are still effective in restricting the working times of a large proportion of employees. However, there is a growing share of employees whose actual working times are gradually drifting away from the collectively agreed norms.

One explanation for this latter trend is the declining coverage rate of collective agreements. According to the Institut für Arbeitsmarkt- und Berufsforschung establishment panel data for the service sector, there is a gap of about 45 minutes between the average contractual working times in firms not covered by collective agreements and those that do adhere to industry-level agreements (Bellmann *et al.*, 2003). Moreover, as Kölling and Lehmann (2002) found by using the same database, firms that left the employers' association between 1996 and 1999 have increased their working times in western Germany by an average of 30 minutes a week compared with those firms that continue to adhere to the relevant collective agreement.

The changing structure of the workforce may provide a second explanation that highlights the possible significance of the 'internal' erosion of the collective agreement system. Increases in working time are found particularly among more highly skilled white-collar workers. According to the micro-census, the difference between their actual working times and the average for all employees in 1999 was two hours per week for full-timers and had increased over the previous 10 years by around 20 minutes (Schief, 2003). This could, in the future, become a significant source of

*Table 1: Frequency distribution of the actual weekly working times of full-time employees (West Germany)**

Time bracket (hours)	1984	1993	1995	1999	2001
<36	2.3	1.8	3.9	10.0	10.3
36–39	0.5	68.8	65.2	47.7	47.0
40	87.6	19.8	21.1	29.7	31.3
41+	9.6	9.6	9.9	12.7	11.3
	100.0	100.0	100.0	100.0	100.0

*Figures in percentage of all full-timers, i.e. *n* percentage usually work *n* hours per week.
Source: European Labour Force Survey.

increases in average working times, because the share of highly skilled employees in the total workforce (around 30 per cent of all white-collar workers currently have a university degree) is continuously increasing (Reinberg, 1999; Wagner, 2000). Changes in company and work organisation also play a role. Following the introduction of various forms of indirect management control, many employees have been given responsibility for managing the process of achieving the targets agreed with management. Under certain circumstances, this may mean that it is also left up to the employees to decide whether the contractual working time has to be exceeded in order to meet the targets (Haipeter *et al.*, 2002; Lehndorff, 2003). If these trends were to strengthen, a situation could arise in which collective agreements are no longer just being *undermined* by firms and political pressures but are also being *circumvented* by employees acting on their own initiative.

As already mentioned, one particularity of the collective agreements in the engineering and metalworking industry is the provision they make for the differentiation of working times on a quota basis. In fact, in 2002, 88 per cent of firms in the metal and electrical engineering industry were already using these provisions; of these, 62 per cent reported they were making use of the full quota and 'would like it to be even higher' (Gesamtmetall, 2002). Consequently, IG Metall had to concede even greater provisions for differentiated working times in the 2004 bargaining round, which underlined the increasing importance of the regulation of flexible working times at company or establishment level (WSI, 2004). It is to this that we now turn.

The flexibilisation of working time

Working-time researchers long ago detected a fundamental shift in the focus of working-time policy in Germany, at the heart of which lay flexibilisation. At the same time, flexibilisation is the most important object of the firm- or establishment-level bargaining that is increasingly replacing industry-level negotiations as the main determinant of the content of regulation. In the engineering and metalworking industry, the opportunities for such bargaining have increased at each stage in the collectively agreed reduction of working time. In the course of the 1990s, after some initial hesitation, more and more firms began to exploit the new opportunities for distributing working time unequally over several months or even years without incurring overtime premiums, or at least not to the same extent. At the beginning of the year 2000, around two-thirds of the 19,000 firms surveyed by the chambers of commerce and industry claimed to be using some form of flexible working-time organisation. The dynamic of this development is clear from the fact that two-thirds of these firms stated they had introduced the flexible forms of working-time organisation in the previous three years (DIHT, 2000).

As mentioned earlier, the most important instrument for dealing with fluctuations in workloads is the working-time account which is now used by around 30 per cent of firms (Bauer *et al.*, 2002). This is also reflected in a structural change in overtime. As one representative employee survey showed, the volume of paid overtime has remained, with cyclical fluctuations, at more or less the same level since the 1980s. On the other hand, unpaid overtime is gradually increasing. Moreover, according to the employee survey, there has been a sharp increase in overtime compensated for at a later date by time off in lieu (Table 2).

This structural change is particularly relevant to white-collar workers, among whom time off in lieu is now by far the most important form of compensation for overtime.

Table 2: Structural changes in overtime in Germany*

	1989	1999
Overtime regularly (%)	35	56
Overtime seldom/never (%)	65	44
Volume of overtime per employee per week (hour)	2.0	2.8
Of which:		
paid (hour)	1.0	0.9
unpaid (hour)	0.4	0.8
time off in lieu (hour)	0.6	1.1

*1989 West Germany only.

Source: Bundesmann-Jansen *et al.* (2000).

The importance of unpaid overtime increases with skill level and occupational status, and among white-collar workers in highly skilled jobs and with managerial responsibilities it actually predominates (Wagner, 2000).

But how realistic is the assumption that the overtime credited to working-time accounts will in fact be converted into time off in lieu at some later date? As the above-mentioned employee survey showed, only in 14 per cent of firms using the instrument were accounts balanced within the agreed period. However, once this equalisation period was exceeded, only 12 per cent of firms (with more than 20 employees) made efforts to reduce the accumulated working-time credits within a relatively short span of time. In most firms, these time credits were, according to managers, either paid for in cash (29 per cent), simply carried forward (21 per cent) or, in a few cases, transferred to long-term accounts (five per cent); in no fewer than 20 per cent of firms, however, the accumulated credits simply lapsed without the employer providing any compensation at all (Bauer *et al.*, 2002).

Taken as a whole, these findings reveal a 'grey area' in working-time regulation: paid overtime is stable or even declining slightly, while unpaid overtime and overtime with time off in lieu are increasing. However, some of the overtime that is supposed to be recompensed with time off in lieu is surreptitiously being converted after the event into paid or even unpaid additional hours.

In sum, the delegation of regulatory competencies from the parties at industry level to the actors in the workplace has clearly made the crossover points between working-time flexibilisation and working-time increases hazy in many cases. It is reasonable to assume that this is one factor in the gradual 'fraying' of working-time regulations alluded to above. Flexible working times are certainly being increasingly organised and regulated at the firm level, but the guidance provided in this respect by industry-level collective agreements is extremely weak.

CONCLUSIONS

What conclusions can be drawn from our analysis? Has the shift of regulatory content from the industry to the firm level gone hand in hand with a loss of binding power?

First, influential trade unions and works councils such as those in the German automotive industry have proved themselves able to prevent a headlong flight towards deregulation. Flexible working times can, in principle, be regulated at the firm and establishment levels if industry-wide collective agreements open the way to

decentralised bargaining. Variable working times, managed by means of working-time accounts, have been incorporated into a new network of regulations, which may rightly be called a form of 'regulated flexibility'. Thus, despite a marked shift in the locus of regulation in the German automotive industry from the industry to the company level, no widespread trend towards the 'internal' erosion of collective regulation has emerged. Clearly, the loss of old forms of codetermination following the introduction of working-time account systems has been offset by the development of new, more procedural forms.

However, our second conclusion is that our findings on the situation in the German automotive industry are not easily generalised. Unions and works councils in the German automotive industry are still strong, particularly in production areas. The works councils are able to meet the challenges of the devolvement of regulatory functions and to take on the new roles and tasks associated with the regulation of flexibility. A similar situation can be expected to prevail in large firms in other industries as well. However, there are industries in which works councils are less powerful, and there is an increasing number of establishments in which works councils perhaps do not exist at all. The situation here will be quite different, and it is more likely that the delegation of working-time flexibilisation to the actors at the firm or establishment level will weaken the binding power of collective working-time regulations. Thus, there is only limited scope for opening up collective agreements even wider to the negotiation of workplace solutions. The parties to collective bargaining have to face up to the inescapable task of further developing the content of industry-level collective agreements in order to equip themselves with the means of striking a balance between working-time flexibility, on the one hand, and working-time certainty, on the other (cf. Lehdorff, 2003).

This observation—and this is our third conclusion—becomes even more crucial once the unresolved problem of working-time differentiation by occupational group is taken into account. As far as the working times of more highly skilled white-collar employees are concerned, the automotive industry cannot necessarily be regarded as a 'flagship' for the engineering and metalworking industry and other sectors of the German economy. The clause that sanctions constant overshooting of the collectively agreed working time weakens the normative binding power of weekly working times in precisely those occupational groups among whom the influence of works councils and, in particular, trade unions, is in many cases much less strong than it is in production departments, their traditional bastions. Of course, any attempt to impose uniform working times on these categories of workers would be doomed to failure. And yet, it may not be impossible to reform the collective agreements in such a way as to offset greater working-time flexibility with enhanced opportunities for employees to control and choose their own working times and new rights for works councils to bargain on working conditions that enable employees to stay within the limits of their contractual working hours. In any event, the search for possible ways to reform the industry-level collective agreements and the challenges faced by the trade unions as they seek to win greater influence among white-collar employees turn out to be two sides of the same coin.

Acknowledgements

We thank the trade unionists and works councillors involved in our research project and the helpful comments of the anonymous referees.

References

- Bauer, F., H. Groß, E. Munz and S. Sayin (2002), *Arbeits- und Betriebszeiten 2001. Neue Formen des betrieblichen Arbeits- und Betriebszeitmanagements. Ergebnisse einer repräsentativen Betriebsbefragung* (Köln, ISO Institut zur Erforschung sozialer Chancen).
- Beigel, H. (2004), 'Solidarisch in die Zukunft', *Person*, **1**, 38–40.
- Bellmann, L., P. Ellguth and M. Promberger (2003), *Arbeitszeiten in der öffentlichen und privaten Dienstleistungswirtschaft. Sachstand, Datenlage und Möglichkeiten einer Verbesserten Erfassung auf Basis betriebsbezogener Erhebungen* (Nürnberg, mimeo, Institut für Arbeitsmarkt- und Berufsforschung).
- Beyer, J., A. Hassel, M. Höpner, A. Kurdelbusch, B. Rehder, W. Streeck and R. Zugehör (2002), *Arbeitsbeziehungen in Deutschland: Wandel durch Internationalisierung. Bericht über Forschungen am MPIfG* (Köln, Max-Planck-Institut für Gesellschaftsforschung).
- Bispinck, R. and T. Schulten (1998), 'Globalisierung und das deutsche Kollektivvertragssystem', *WSI-Mitteilungen*, **4**, 241–248.
- BMWA (2003), *Tarifvertragliche Arbeitsbedingungen im Jahr 2002* (Berlin, Bundesministerium für Wirtschaft und Arbeit).
- Bosch, G. (2004), 'The Changing Nature of Collective Bargaining in Germany: Coordinated Decentralization', in H. Katz (ed.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY, Cornell University Press) pp. 84–118.
- Bruyère, M. and C. Odile (2002), 'La Fragilité des Comparaisons Internationales des Volumes de Travail. Une Tentative de Construction d'un Indicateur Homogène', *Travail et Emploi*, **90**, 55–69.
- Bundesmann-Jansen, J., H. Groß and E. Munz (2000), *Arbeitszeit '99. Ergebnisse einer repräsentativen Beschäftigtenbefragung zu traditionellen und neuen Arbeitszeitformen in der Bundesrepublik Deutschland* (Köln, ISO Institut zur Erforschung sozialer Chancen im Auftrag des Ministeriums für Arbeit, Soziales und Stadtentwicklung, Kultur und Sport des Landes Nordrhein-Westfalen).
- DIHT (2000), *Arbeitszeitflexibilisierung zur Steigerung der Wettbewerbsfähigkeit* (Berlin, Ergebnisse einer DIHT-Umfrage).
- Euro On-line (1998), 'Flexibility of Working Time in Europe. European Industrial Relations Observatory On-line', European Foundation for the Improvement of Living and Working Conditions (<http://www.euro.eurofound.eu.int/1998/05/study/>).
- Friedman, A. L. (1977), *Class Struggle at Work and Monopoly Capitalism, Industry and Labour* (London, Macmillan).
- Gesamtmittel (2002), *Arbeitszeit in der Metall- und Elektroindustrie* (Köln, Ifo-Umfrage im Auftrag von Gesamtmittel).
- Haipeter, T. (2000), *Mitbestimmung bei VW. Neue Chancen für die betriebliche Interessenvertretung?* (Münster, Westfälisches Dampfboot).
- Haipeter, T. (2002), 'Innovation zwischen Markt und Partizipation. Widersprüchliche Arbeitsgestaltung im Bankgewerbe', *Zeitschrift für Soziologie*, **31**, 2, 125–137.
- Haipeter, T. and S. Lehnendorff (2002), 'Arbeitszeitregulierung in der deutschen Automobilindustrie', in *Grüne Reihe*, Vol. 10 (Frankfurt am Main, IG Metall-Vorstand, Funktionsbereich Tarifpolitik).
- Haipeter, T., S. Lehnendorff, G. Schilling, D. Voss-Dahm and A. Wagner (2002), 'Vertrauensarbeitszeit—Analyse eines neuen Rationalisierungskonzepts', *Leviathan*, **30**, 360–383.
- Hartz, P. (1996), *Das atmende Unternehmen: Jeder Arbeitsplatz hat einen Kunden* (Frankfurt/New York, Campus).
- Hassel, A. (1999), 'The Erosion of the German System of Industrial Relations', *British Journal of Industrial Relations*, **37**, 3, 483–505.
- Herrmann, C., M. Promberger, S. Singer and R. Trinczek (1999), *Forcierte Arbeitszeitflexibilisierung. Die 35-Stunden-Woche in der betrieblichen und gewerkschaftlichen Praxis* (Berlin, Edition Sigma).

- Kädtler, J. and H. J. Sperling (2001), 'Worauf beruht und wie wirkt die Herrschaft der Finanzmärkte auf der Ebene der Unternehmen?', *SOFI-Mitteilungen*, **29**, 23–43.
- Kohaut, S. and C. Schnabel (2003), 'Zur Erosion des Flächentarifvertrags: Ausmaß, Einflussfaktoren und Gegenmaßnahmen', *Industrielle Beziehungen*, **10**, 2, 193–219.
- Kölling, A. and K. Lehmann (2002), 'Arbeitszeitregelungen und Tarifbindung', *Beitrag*, **251**, 105–133.
- Lehdorff, S. (1997), *Zeitnot und Zeitsouveränität in der just-in-time-Fabrik. Arbeitszeitorganisation und Arbeitsbedingungen in der europäischen Automobilzulieferindustrie* (München und Mering, Hampp).
- Lehdorff, S. (2003), 'The Long Good-bye? Tarifvertragliche Arbeitszeitregulierung und gesellschaftlicher Arbeitszeitstandard', *Industrielle Beziehungen*, **10**, 2, 273–295.
- Peters, K. (2001), 'Die neue Autonomie in der Arbeit', in W. Glissmann and K. Peters (eds), *Mehr Druck Durch Mehr Freiheit Die Neue Autonomie in der Arbeit und Ihre Paradoxon Folgen* (Hamburg, VSA) pp. 18–40. English version: 'The New Autonomy at Work' (<http://www.cogito-institut.de>).
- Promberger, M. and R. Trinczek (1993), 'Stell Dir vor, es gibt Möglichkeiten zur flexiblen Gestaltung der Arbeitszeiten und sie werden kaum genutzt! Erfahrungen aus der betrieblichen Umsetzung von Tarifverträgen', in H. Seifert (ed.), *Jenseits der Normalarbeitszeit. Perspektiven für eine bedürfnisgerechtere Arbeitszeitgestaltung* (Köln, Bund) pp. 104–129.
- Reinberg, A. (1999), 'Der qualifikatorische Strukturwandel auf dem deutschen Arbeitsmarkt—Entwicklungen, Perspektiven und Bestimmungsgründe', *Mittab*, **32**, 434–447.
- Robinson, J. P., A. Chenu and A. S. Alvarez (2002), 'Measuring the Complexity of Hours at Work: The Weekly Work Grid', *Monthly Labor Review*, **125**, 4, 44–54.
- Schief, S. (2003), 'Lange Gehirnläufezeiten überall? Eine Analyse der Wochenarbeitszeiten von Frauen und Männern unter Berücksichtigung der Qualifikation in vier Ländern', *Arbeit*, **3**, 199–214.
- Schmidt, R. and R. Trinczek (1999), 'Der Betriebsrat als Akteur der industriellen Beziehungen', in W. Müller-Jentsch (ed.), *Konfliktpartnerschaft Akteure und Institutionen der industriellen Beziehungen* (München und Mering, Hampp) pp. 103–128.
- Schmidt, R., S. Röbenack and R. Hinke (2003), 'Prekarisierung des kollektiven Tarifsystems am Beispiel der ostdeutschen Metallindustrie', *Industrielle Beziehungen*, **10**, 2, 220–249.
- Thompson, J. D. (1967), *Organizations in Action. Social Science Bases of Administrative Theory* (New York, McGraw-Hill Book Company).
- Tüselmann, H. and A. Heise (2000), 'The German Model of Industrial Relations at the Crossroads: Past, Present and Future', *Industrial Relations Journal*, **31**, 3, 162–176.
- Wagner, A. (2000), 'Arbeiten Ohne Ende? Über die Arbeitszeiten Hochqualifizierter Angestellter', in *Jahrbuch 1999/2000* (Gelsenkirchen, Institut Arbeit und Technik im Wissenschaftszentrum Nordrhein-Westfalen) pp. 258–275.
- WSI (2004), *Informationen zur Tarifpolitik* (Düsseldorf, Hans-Böckler-Stiftung).