

**THE EFFECT OF EUROPEAN INTEGRATION ON NATIONAL INDUSTRIAL
RELATIONS SYSTEMS: THE AMBIGUOUS CASE OF GERMANY**

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OUTLINE

1. Problems of Distinction: European vs. Home-made vs. Global Developments
2. The Alteration of German Legal Employment Standards Through EC Labour Regulations
 - 2.1 Workplace Health and Safety Regulations
 - 2.2 Equal Treatment of Men and Women
 - 2.3 The Opening of Public Sector Labour Markets
 - 2.4 EC Interventions into National Education and Training Systems
3. EC Policies: Employment and Labour Market Effects
 - 3.1 The European Monetary System, the Internal Market and their Impact on German Industrial Relations
 - 3.2 EC Industrial Policies
4. Some Empirical Evidence
 - 4.1 Vague General Tendencies and Examples
 - 4.2 The Clear Effects of German Unification and the East-European Threat
5. Conclusions: The Direction of the Integration Effects
 - 5.1 Downward Intervention
 - 5.2 Upward Delegation
 - 5.3 Horizontal Interdependence

1. Problems of Distinction: European vs. Home-made vs. Global Developments

What impact has the supranational European regulation and the politically induced and controlled integration of product, capital and labour markets exercised on the German industrial relations systems to date? While the effects of EC social and labour law and the jurisdiction of the European Court of Justice can easily be identified - leaving open the question of whether reality complies with the norms - the consequences of EC polity and policy changes are much harder to trace.

- EC policies directed towards the establishment and functioning of the internal market- the officially overwhelming goal of the whole Single Market project - should increase the competitive pressure on national industries, reduce monopolistic rents and the room for above-market compensation for formerly sheltered companies and their employees. Those national industries and companies that gain by eased international market access, due to economies of scale, e. g., will show an enlarged bargaining potential. Whether the employers can appropriate parts of those gains cannot straightforwardly be judged. Single market induced technological innovations or accompanying labour market widening may diminish the relative scarcity of labour and weaken the bargaining power of employees and their unions. Without those effects detrimental to labour's bargaining position, any improvement in company and industry profitability should be shared by the employees, perhaps to an overproportional extent in those cases, where the threat potential rises as a consequence of the increased overall profitability. Which group German industries and enterprises belong to is an empirical question.

- EC policies being protectionist for the Community as a whole and contributing to a "Fortress Europe" will increase the means for distributive bargaining, for some time at least. EC industrial policies via subsidies or other interventions into product and capital markets may originate out of national initiatives. Their long-term impact on the competitiveness and the industrial relations system of the single industries again is a difficult empirical question.

- The European integration is paralleled both by tendencies towards globally strengthened

market linkages and by specific national developments and events. The German unification and the breakdown of the communist economic and political order have put the German economy and society under an enormous stress. High unemployment, pressures towards "fiscal austerity" and regional tensions that are also reflected within single multinational companies coincide with a global recession. The present circumstances undoubtedly impair labour's position, and only a rash judgement would attribute these changes to the simultaneous EC integration. The singling out of the genuine EC effects on the current state of German labour markets and industrial relations poses another tough empirical problem.

According to the panel's idea, past developments are to be "inventorized" and interpreted.

At the time the paper is written, it is by no means clear whether all member states will ratify the Maastricht Treaty. The panel organizer therefore proposed to analyse what has already happened and to try to identify the impact of European integration on German industrial relations along three dimensions:

- Which EC regulations and policies have changed the German industrial relations system? Which actor or party lost, who gained? Have the social partners - the German term for the parties to collective agreements - developed common national views or policies in reaction to "*downward intervention*" ? Have the German government or other important actors in German politics, like the Central Bank, played a reinforcing or mitigating role in transmitting supranational impulses on the industrial relations system?
- Given the possibility to externalize national problems by "*upward delegation*": Which actor tried to strengthen his position through shifting authority and influence to supranational authorities? In order to solve national problems or to attain some leverage against international competitors? Have the German social partners attempted to prevent policy issues to become EC regulated?
- Is it possible to identify competition and national competitive strategies that resulted in a changed industrial relation system in Germany? Are new system elements imported and

implanted? Or does the "*horizontal interdependence*" of European industrial relations systems in the case of Germany reduce to a mere propagation of the "German model", a model that many a German regarded as relatively successful?

Many of the questions raised will only receive a tentative, speculative answer. To inform the discussion I will successively address: firstly, the explicit supranational regulations of labour market institutions; secondly, the indirect intervention into labour markets via monetary and fiscal policies and via industrial policies. Finally, the consequences of German unification and German monetary union are given special attention to separate German from European developments and to allow cautious speculations about the consequences of a European Monetary Union as stipulated in the Maastricht Treaty.

2. The Alteration of German Legal Employment Standards Through EC Labour Regulations

German industrial relations are relatively extensively regulated by law. This relatively high degree of juridification contrasts with the low legal powers of the Community decision-making powers in labour and social affairs. The EC started as a market integration project, and labour regulations were of supranational interest only in so far as they resulted in distorted competition on product markets (cf. Art. 100 and 100a Rome Treaty concerning nontariff barriers). Efforts to acknowledge and to develop politically the 'social dimension' of the Single Market project resulted in the awarding of legal powers to the EC in the realm of workplace safety and health protection (Art. 118a Rome Treaty). Simultaneously, a 'social dialogue' was launched to have the national peak associations of employers and unions participating in the European shaping of social policy. Both developments would be broadened and strengthened by Articles 2, 3, and 4 of the Treaty of Maastricht (including the Social Protocol).

The following short overview will focus on the pre-Maastricht supranational influences on German labour law. In addition to the major directives I will make reference to some European

Court of Justice rulings. Legal interventions may relate to substantive issues - thus substituting or complementing the bargaining between employers and employees or their representatives. But legal interventions may also foresee or imply certain procedural tuning and thereby constitute participatory schemes. In the case of Germany, this could mean changed rules for the works councils, for instance.

In the field of employment and social policy, 23 directives had to be transformed into national law at the end of 1991. The speed of national compliance varies across member countries. While the UK showed a 100 % rate, Germany (together with Denmark) rates second (95 %), Italy takes an intermediate position (90 %), the Netherlands, Luxembourg, and Greece trailing behind (77 % of the directives transformed into national law). (cf. Official Journal, 28.09.1992)

2.1 Workplace Health and Safety Regulations

This is the area of strongest EC activities in labour law.

Directives based on Art. 100 of the Treaty of Rome require an unanimous decision in the Council of Ministers. The directive concerning hazardous substances (80/1107/EEC) is meant to ensure certain minimum standards of health risks and of work place equipments. This directive intended to establish the free flow of machines by explicit harmonization. Higher national standards are considered to distort the competition for investment goods and are, therefore, in general prohibited (cf. Wank 1992: 85ff, Birk 1990: 30). Directives based on the new Art. 100a of the Treaty of Rome only require a qualitative majority vote in the Council of Ministers. They constitute minimum standards that may be excelled by any member country. While there was a certain reluctance on the German side to accept the Machinery Directive (89/392/EEC), to date only one case has become known in which noise standards were reduced after the directive (cf. Partikel 1990: 136). The most important example is the framework directive concerning health and safety at the workplace (89/391/EEC). Here the German standards of worker protection will most likely be improved. The directive pertains to all employers and employees and sets higher standards than the

present German law, for instance lower limits for hazardous substances, stronger standards for screen workplaces (cf. Konstanty/Zwingmann 1989: 562ff, Brokmann 1992: 46ff). The European push appears to have initiated a complete overhauling of the relevant German laws ("Arbeitsschutzgesetzbuch"). The recent German draft bill aims at a comprehensive legal regulation. The increase in the number of norms and the heightening of standards will inevitably lead to intensified works councils participation on plant level according to their codetermination rights (§87 Works Constitution Act, cf. Wank 1992: 83). The establishment of additional committees with parity between management and employees are being proposed by the social democratic opposition (currently without little chances of success, however).

"With these innovations, the European Community definitely adopted the *highest* health and safety at work level which is to be found among the 12 Member States" (Eichener 1993:6). This result is particularly surprising for all those observers who are afraid of social dumping via supranational harmonization. It must be attributed to the Commission's drive and skill to combine the most innovative protection elements from the various countries (ibid.: 96f.). It is even the Commission's financial and political support for the Trade Union Technical Bureau that enables unions at least to a certain degree to participate in supranational standardization activities (ibid.: 104), an area in which the unions have hardly been active in any of the member states.

2.2 Equal Treatment of Men and Women

EC law has considerably raised the rights of women to equal treatment above the national German norms. The European Court in particular improves restrictions on the employers in order to prevent interpretations of the German law implying an undue discrimination of women at work.

For some time it had been the general understanding among German lawyers that the

directive 76/207/EEC merely confirmed the German state of the law and that the German adaptations were of a purely technical nature. The European Court rulings, however, overturned this conviction in three important cases:

- The claim for damages due to discrimination in recruitment was considerably increased (cf. Beckmann/John/Wathling 1991: 124)
- The right to deny a pregnancy while applying for a job and the prohibition to turn down applications on grounds of pregnancy was established (cf. Däubler 1992: 581)
- The prohibition of female night work is abolished as long as males are allowed to work at night (cf. Schäferkord 1992: 463)

On the basis of directive 75/117/EEC the European Court required the German legislator not to treat women unfairly in an indirect manner, i.e. by regulations concerning part-time workers -, most of whom are in fact women.

- Even marginal part-time workers, who in Germany are not subject to unemployment insurance, health insurance, and the statutory pension scheme received the right to continued payment of remuneration in the case of sickness (cf. Erasmy 1992: 859 f).
- In general, part-time workers must not be excluded from company retirement benefits (cf. Birk 1989: 13).

Directive 86/378/EEC gave rise to the European Court requirement that any sex-specific age limits are inadmissible in company provisions to supplement the social security of its employees. As long as not even the social security laws have been adapted to this interpretation of the equality of treatment principle, however, the transformation of this far-reaching ruling into German law may be delayed (cf. Birk 1991: 317)

It seems appropriate here to give a short account of how the various directives still proposed by the European Commission concerning "atypical work" and "working-time" (as part of the

social Action Programme of 1989) have been received in Germany. Both drafts contain decisive adaptation needs for the German legislator and the parties to collective bargaining, which is presumably the reason why a consensus among the ministers for labour and social affairs could not yet be found.

- The stipulation of the proposed directive (based on Art. 100a Treaty of Rome) to define an EC-wide margin for "marginal part-time workers", i. e., those exempt of statutory social security obligations and benefits, at a maximum of 8 working hours per week would almost halve the current German limit (15 hours for the old-age insurance and 18 hours for the unemployment insurance are the currently valid limits).

This drastic cut would considerably increase the labour costs to employers and, even if they could shift the increase entirely on to the employees, non-negligible drops in the employment of a particularly weak group among the part-time workers have to be anticipated (cf. Hromadka 1991: 149)

The DGB (Deutscher Gewerkschaftsbund, the German Trade Union Congress) nevertheless supports the proposed directive, while the employers complain about the rising inflexibility of corporate employment policies caused by European juridification.

The EC Commission interprets Art. 118a widely and subsumes questions of working time under the heading of health and safety. It has proposed a directive that stipulates minimum standards for rest time, annual leave, maximum weekly working hours, and shift work.

Although it is not yet known whether the German working-time law currently under work will excel the proposed standards, it certainly would be true of the present one (dating back to 1938). Since in the past leave, shift work, and working conditions have been subject to

collective bargaining, the passing of this proposed directive would profoundly interfere with the traditional rights of unions and employers.

While the discussions go on, the international competition drives works councils to concessions in well established working-time claims: a works council of the Opel plant in Bochum, a GM daughter, accepted Saturday again as a regular working day in order to extend the utilization period for the machinery (cf. Bastian/Hinrichs 1990: 96)

The proposed directive concerning cross-border services does not have gender-specific implications; it is the last one to draw the reader's attention to. The proposed directive would secure a hard core of worker's rights as defined in the country of destination (maximum daily and weekly working time, minimum wage, overtime premia, and leave-regulations), no matter what the regulations in the country of origin were - if only the service export lasted for more than three months. The passing of this draft would hamper the undercutting of relatively high German labour costs through competitors lowering German norms below the fixed minimum; it would mainly concern the construction industry where nowadays even norms fixed in collective bargaining agreements and extended to the whole industry by the Federal Ministry of Labour may be undercut by cross-border competitors (cf. Coen 1992: 2068).

It should be noted that enterprises from outside the European Community may become the bigger challenge, because they often appear to treat their workers illegally as self-employed in order to exempt them from laws protecting employees (cf. Gross/Syben 1992: 17).

2.3 The Opening of Public Sector Labour Markets

The public service can be exempted from the principle of the free movement of labour according to Art. 48 Rome Treaty. Up to 1990, the German government interpreted widely certain clauses of the German Constitution and of the German Law for Civil Servants (Art. 33 Abs.4 Grundgesetz , §§ 7 Bundesbeamtengesetz, 4 Beamtenrechtsrahmengesetz) which required the German citizenship for civil servants and their fiduciary position. The Commission and the European Court in the past voted for a narrow interpretation of the exemptions. There has emerged a conflict about the appropriate extension of the civil servant status (which in Germany traditionally includes teachers, professors, and many other administrative services); and there exists a deeper conflict about the legal power of EC law to change "automatically" the national Constitution. In summer 1991, the Commission took the matter to the European Court based on Art. 177 Rome Treaty (cf. Keller/Henneberger 1992), and won a similar case against the French Government (*Bleis vs Ministère de l'Education Nationale*, ECJ c-4/91, 27.11.1991) (Edelmann 1992).

In 1990, the federal government and the National Association of Civil Servants, der Deutsche Beamtenbund, agreed that citizens from all EC member countries may become civil servants in Germany - with the details and the possible exceptions still unclear (cf. Riegel 1992). Beyond the important questions of the relationship between EC and national constitutional law the public sector unions and occupational associations see the public service privileges (tenure, non merit pay principles, e.g.) at stake, but also envisage the disappearance of disadvantages (the prohibition to strike). It could well happen that the EC interventions will entail major changes in the public sector labour markets. This is a remarkable situation indeed, as inner-German reform debates have been futile for decades.

2.4 EC Interventions into National Educational and Training Systems

The free movement of labour requires that children of migrant employees have access to the host countries educational and training institutions and that skills certified in one country are recognized in the other member states. There are two important directives - the reciprocal recognition of higher education diplomas (89/48/EEC) and a similar recognition of the degrees of certain vocational training certificates (92/51/EEC). In addition, two important decisions of the European Court - the Gravier decision (1985) and the Erasmus decision (1989) - paved the ground for the opening of national systems and for the power of the Council of Ministers to enact binding decisions in the field of occupational training. Undoubtedly, the steadily growing exchange programmes between European universities mean a Europeanization of teaching and learning, their effects are already visible, not only in changed attitudes of the migrant students, but also in the classes and the syllabi. If the future European élite thinks in cross-border experiences an attitudinal change may occur that could resemble the Americanization of the European young generations after the war. The European Court's extensive interpretation of the Treaty of Rome is highly controversial in Germany because the federalist division of powers accords to the German states, as the most important responsibility, the right to regulate education. Germany also abstained from the vote for the recognition of vocational certificates. Therefore, education and training is another area where the European Court created law that considerably affects the national polity and the policy outcomes (cf. Klemm 1992, Wild 1992).

3. EC policies: Employment and Labour Market Effects

3.1 The European Monetary System, the Internal Market, and their Impact on German Industrial Relations

Since 1983, the exchange rates and monetary policies in the EC have been coordinated, factually with the DM serving as anchor currency and the German Bundesbank playing the role of a 'European Central Bank'. This informal cooperation stabilised the currency markets; interest rates and inflation rates showed a remarkable tendency towards convergence. Transparent, stable markets eased international trade as hedging operations became less necessary. The integration of the product markets between 1979 and 1990 developed amazingly.

With fixed nominal exchange rates and inflation rates in Germany below average, the DM experienced a gradual devaluation in real terms, and this real devaluation, in turn, cumulatively increased the German competitive advantage over countries like Italy, Ireland, or Spain (cf. Schill 1991: 121). Growing export meant higher profitability and higher employment. In 1986, the rate of return of German companies regained its pre-second oil crisis level; from 1983 to 1990 unemployment fell by 570.000; total employment increased by 2.2 million (cf. Deutsche Bundesbank 1991: 45f).

Tighter labour markets mean improved bargaining positions for unions. The devaluation of the DM in real terms caused import prices to grow. It could therefore by no means be taken for granted that German unions pursued moderate wage demands with the intention or at least the effect to maintain Germany's export advantages. The gradual deterioration of the wage share in GNP and the avoidance of a wage-price spiral through the eighties show that German unions supported the supply-side policies of the eighties.

Recently the situation has reversed. Since September 1992, the speculative crises of the Lira, the Peseta, the British Pound, and the Irish Pound have led to a revaluation of the DM, a tendency that was reinforced by the relatively strong price inflation in Germany that occurred due to (private and public) demand growth after German unification. The Bundesbank has pursued a high interest rate policy to curb the German inflation rate, neglecting the bitter effects for the economic recovery in other member states. The medium term effects of the unification look grim: the balance of trade surplus has shrunk, unemployment and inflation have grown - and so has the militancy of German unions and employers, starting in the east, with nobody today knowing where the sudden cancellation of collective agreements on industry, enterprise and plant level will stop.

Growing German exports of goods do not simply translate into the export of unemployment elsewhere, since with the level of economic activity imports too will usually increase. Repercussions in Germany and elsewhere will be industry specific and will depend on competitive reactions: international labour cost competition and the relocation of production facilities being two possible alternatives with obvious employment consequences. Despite international competition in product markets, the German unions' concern for the international competitiveness of German industry must not be confounded with a nationalistic, chauvinistic approach per se. The current turmoils show that the German unions' cooperation and "moderation" is contingent upon its success. The current situation demonstrates also that the unions' confidence in the future rewards of "moderation" rests upon stable expectations about the international economic development. It is very likely that the European Monetary System, an awkwardly mixed German-supranational institution, has strongly contributed to the stability of inner-European developments and expectations.

Even in periods of general economic growth countries, industries, regions and not at least companies do not necessarily benefit all in a similar manner from economic integration and the Internal Market.

International labour cost competition will favour labour intensive mass production in South-European countries and may induce employment reductions or even plant relocations from high labour cost countries. The threat of relocation is a means in collective bargaining, but in the eighties the German competitiveness was already above average in many of those industries where major changes are to be expected because of the abolishment of still existing nontariff barriers, strong price discrepancies for identical products between countries and low import shares (cf. Gerstenberger 1990: 165).

The growing concentration (due to economies of scale in production, e. g.) and the internationalization of production could and should have resulted in capital concentration and in capital movements. Employers and unions sometimes interpret such movements as escapes from the costs of high German labour market regulation and use this interpretation to call for national deregulation or European-wide regulation respectively.

3.2 EC Industrial Policies

Labour demand is derived from product demand. The liberalization of product and capital markets as well as interventions into product and capital markets have the potential to redirect trade, investment, and employment flows. Even neglecting the massive procedural and monetary interventions into agriculture, EC "industrial policy" has had a long history in coal and steel (where it was started in 1951), in research and technological development (since 1987), and in regional subsidies.

The EC has also helped to protect certain EC-industries from global competition, most notably from the Japanese car industry. If the EC Commission pays uneven attention to national government's attempts to foster the national champions, to subsidise their home industries or to favour national companies and public procurement, the Commission would in fact influence the labour markets, i. e., employment and earnings capacities, and threat

potentials of employers and employees in collective bargaining. It is, of course, difficult to trace and quantify the influences of EC policies.

The EC Regulation on Mergers (1990) applies to mergers resulting in sales revenues of more than 5 bil. ECU (with at least 1 bil. ECU in two member countries and not more than two thirds of the revenues occurring in one member country). The Commission weighs off the maintenance of competition against the technological advances made possible through size and concentration. Depending on the actual criteria, the EC controls may turn out to be softer than German national antimerger law inducing companies to grow internationally and circumventing national company and labour law regulations.

Although it might seem appropriate here to give a short account of EC efforts to establish European works councils and other forms of worker representation on boards, the lack of results precludes any detailed treatment. Starting with the Vredeling-draft directive the many attempts to establish a European Company Law, the *Societas Europaea*, always left options for more or less extensive codetermination arrangements, i.e., the German standards would not have been altered. The more recent Commission attempts do not appear to be more promising. The rising of voluntary Euro-works councils owes its momentum to French grassroots initiatives, with Volkswagen (1990), Bayer (1991), Continental (1991), Hoechst (1991), Digital Equipment (1991/92) following behind. There are some other initiatives (Deppe 1992). At Volkswagen the general works council had already carefully monitored the acquisition of Spanish SEAT in the early eighties, and the newly established Euro-works council also fits into the traditional system of general and company works councils (cf. Turner 1992: 35-38).

Among special sectors the EC regulation of the public sector could make a great difference. While the German reluctance to employ foreign civil servants has already been dealt with, the deregulation of public procurement deserves some additional attention. In 1990, its value amounted in Germany as well as the EUR-12 to about 18 % of GDP. Despite six directives

and single successes (cf. Fischbein 1992: 17), there is a general understanding that public procurement still is a national affair. In 1992, the German construction industry, for instance, realized only a little more than one percent of their orders in European countries (Trierischer Volksfreund, 16.1.1993). Language barriers - the submissions have to be presented in the host country language -, the lacking knowledge of the host country law - and presumably the fear of single governments to lose an important, versatile political tool - to foster domestic employment, among other objectives - are at the origin of this slow internationalization of public sector markets. Given the many mixed forms of private-public ownership, there is legitimate concern about the distortion of the competition between private and public enterprises depending on whether the special bidding regulations have to be applied or not (cf. Wissenschaftlicher Beirat 1992: 9f).

4. Some Empirical Evidence

4.1 Vague general tendencies and examples

It is true that intra-community trade has gained an ever increasing share in total foreign trade, the rate of export growth turned from -2 % (average 1979-81) to 7,5 % (average 1987-90) (cf. Hermann/ Ochel/ Wegner 1990: 173).

At first glance surprisingly, the larger internal market has not experienced a higher migration, just the opposite.

Tab. 1: Foreign employees in Germany in thousands; total number of employees in Germany in thousands

Year	Foreign employees total	of this: EC countries	total employment
1975	2,091	849	
1980	2,041	732	26,980
1985	1,555	520	26,489
1986	1,547	498	26,856
1987	1,557	484	27,050
1988	1,577	473	27,261
1989	1,646	483	27,631
1990	1,740	493	28,433

Source: Walwei/ Werner 1993: 20; IAB 1992:38f

It is the group of EC workers with university degrees who increasingly migrate or commute in longer-term intervals (cf. Sadowski 1993).

On second thought, this development could be seen as an expression of diminishing welfare discrepancies in Europe, which would make migration less and less necessary. But such an optimistic view of the overall effects of the growing European market has to be cautioned regarding the numbers of unemployed, particularly the long-term unemployed persons.

Tab. 2: Long-term unemployment in the European Community

	1983	1985	1987	1989	1990
Belgium	63,8	57,8	72,7	74,5	65,8
Denmark	26,8	21,1	22,7	20,7	28,5
West Germany	36,3	46,1	46,4	47,8	45,1
Greece	32,0	43,1	43,5	49,8	49,2
France	38,5	42,8	43,4	42,6	38,6
Ireland	.	61,9	63,6	64,4	63,6
Italy	52,3	63,2	63,4	66,9	67,4
Luxembourg	31,0	34,6	30,6	30,8	30,9
Netherlands	46,1	55,0	42,0	43,9	44,3
United Kingdom	44,5	47,6	44,8	37,7	33,2
Portugal	.	.	53,0	44,4	43,6
Spain	.	.	60,4	55,8	50,8
EEC 12			51,8	50,8	47,8

Source: Walwei, Werner 1993: 15

The internationalization of European companies has faster proceeded than elsewhere in the world (cf. Buigues/ Ilzkowitz/ Lebrun 1990) with one half of German direct foreign investment staying in the EC (cf. Bundesbank 1993: 40). Though relocation of production takes place in the car-making industry, precision tool industry, in the optical industry, textile and clothing industry, and although there is a favourable tendency towards the southern EC countries, there is an important share of German direct foreign investment into subsidiary companies in Ireland which basically economises on tax payments (cf. Deutsche Bundesbank 1992: 38).

It might appear more promising to identify the impact of increased international competition in single industries or with regard to single companies.

- Siemens, national champion in electronics and in telecommunication, previously "perveyor to the royal household", the state-owned Deutsche Bundespost, had to adapt to new competitors in Germany, but at the same time prepared for the European market. Today its German market share is only 38 %, and the remaining problems seem to have originated much more from single decisions (acquiring Nixdorf), fast technological progress (ISDN), and the world-wide recession than from single market deregulation.

- The steel industry suffers from world-wide excess capacities and redundancies; the number of plant closings is increasing. There is the wide-spread suspicion among German employers and unions that the Commission fails to sufficiently control national, in particular Italian, subsidies and thus forces actually competitive plants to halt production (cf. *Süddeutsche Zeitung* vom 12.03.1993). If this were the case, the failure of competition European policy - and *national* coalitions of the parties to collective bargaining - more than intensified competition would be the cause of hardships.

- The difficulties confronting major car-producing German companies at present are often ascribed to lacking cost efficiency. Again, however, redundancies and relocation have not been triggered by European competitors, it was first of all the Japanese producers' superiority that enforced the adaptations (and the worldwide recession in addition).

The realignment of exchange values with the revaluation of the DM against the currencies of Italy, Spain, Ireland, and the U.K. in autumn 1992 resulted in a sudden fall in export demand for the German paper industry - indirect evidence for the view that the European monetary system makes a difference, though perhaps even with effects that distort competition (cf. *Süddeutsche Zeitung* vom 02. Febr.1993).

- A last example: Redundancies and wage reductions in the once shining Lufthansa can be explained by worldwide excess capacities and a much fiercer competition than was imagined when a major renewal of the company's fleet of aircrafts was decided upon. Again, there is no need to refer to European deregulatory movements to understand Lufthansa's current problems - and the innovative collective agreement that were struck to handle the crisis.

In the Lufthansa collective agreement of autumn 1992, the unions, ÖTV and DAG, renounced wage increases, accepted even a deterioration in the pay scale and the reduction of 8,000 jobs in order to improve Lufthansa's competitive position. Excess capacities and international market forces drive most international airlines into the same directions, new forms of concession bargaining should therefore not be ascribed to specific European developments. It is true, these examples are only illustrative. Perhaps it is more productive to distinguish between low and high cost industries and their relative capacities to bear increased competitive pressure (cf. Dell'Aringa et al. 1992:7).

Neither overall tendencies nor individual examples do point into an unambiguous direction. The question of whether the institutional exoskeleton of the European Community distinctively facilitated the real changes in Europe or whether European developments have merely been of an accompanying nature cannot be answered unambiguously.

There are certainly measures that reduce the costs of using markets - the mutual recognition of social security claims or the mutual recognition of higher education degrees - whether they in themselves will be sufficient to change the labour market outcomes is open to debate. In so far as employed and unemployed fare better in more prosperous situations, the market integration indirectly should have given labour a greater say in industrial bargaining (*ceteris paribus*), but perhaps this is only an economist's preperception.

4.2 The Clear Effects of German Unification and the East-European Threat

Among those non-EC international forces influencing German product and labour markets and industrial relations today, the imports from East-European low cost producers and the partly illegal inflow of low wage workers are gathering momentum. There are already Commission initiatives to curb the steel imports from the Tchech and Slovak Republics, Poland, and Hungaria for the period 1991 - 1995 below the 1992 level (cf. Frankfurter Allgemeine Zeitung, 23. April 1993). The general tendency towards seasonal employment in many sectors since 1991 (cf. Gross/ Syben 1992: 17) is paramount in construction, where Rumanian or Polish workers receive on average one third of the wage of German workers (cf. Frankfurter Allgemeine Zeitung, 20. April 1993), and it excels any pressure on wages and labour costs triggered to date by inner-EC migration.

The current pressure on voluntary fringe benefits, in companies like Mercedes or Bosch voluntary works agreements have been notified by the employer, and the narrowing of the wage drift by setting off minimum wage increases against the reduction of voluntary benefits are new developments in Germany's once so stable internal labour markets. They, of course, put strain on the industrial relations, but they are not even in public and political discourse understood as caused by inner-European, single market competition. Quite on the contrary, the EC is thought and used to offer a protective shield against these pressures.

To complicate the argument: The consequences of intensified competition - including the relocation of production into Eastern Europe (Audi, Mercedes) - is not felt equally all over Germany. The unification has redirected the political attention from previously problematic regions - like the Ruhrgebiet or the Saar region with its mining and steel industries - to the East German regions with their, in general, mono-cultural industries. Their high unemployment rates are caused by the collapse of East-European trade and a lacking competitiveness on Western product markets, which in turn is exacerbated by the wage levels agreed upon by the social partners after the German Monetary Union.

The minor successes that the public sector union ÖTV could achieve last year, despite a strike and fierce demands, indicate that the state as employer will bargain less generously than in the past, when tax increases or debt financing are no longer viable choices.

It is the struggles for revising these collective agreements with their prescheduled, step-by-step equalization of East-German wages that currently characterize German industrial relations. The current tensions and quarrels reveal how a lack of international competitiveness that can no longer be buffered by devaluation jeopardise institutions that have been fostered under more comfortable circumstances. The current German experiences give an idea of what the European Monetary Union after Maastricht could mean for countries suffering from backwardness in international competition, after they have lost monetary and fiscal autonomy.

In the East-German metal industry, the employers revoked collective agreements that were struck in 1991 for three years and included a 26 % increase of wages in 1993 and the equalization of East and West German minimum wages in 1994. The IG Metall now considers the notification of the agreements as an extraordinarily hostile act, and it pretends now to strive for enterprise collective agreements - as opposed to the traditional industry-wide collective agreements in Germany. The official rationale given quotes single companies which are prepared to keep the contract, therefore company-specific agreements could differentiate the agreements according to the respective company potentials. Many an observer, however, believes that this new, decentralised bargaining strategy is to achieve two other objectives. There is a growing number of cases reported where works councils in East German plants agree to the undercutting of collective bargaining agreements in order to secure their plants' competitiveness and jobs. If collective agreements were to lose their binding power with the consent of the employees, the reasons to join or stay in a union would vanish. It is not easy to decide whether unions who are in the process of acquiring reputation in the suddenly established East German labour markets should stick to a policy of a rigid "keeping the contract" or whether they would be better advised to cope more flexibly with micro-corporatistic pressures on company or plant level.

In addition, IG Metall's announcement to bargain companywise endangers the employers' traditional bargaining unity in general and poses a threat to the power of Gesamtmetall, the employers' association, as the bargaining agent of the employers in particular. Gesamtmetall also confronts a growing reluctance to membership. The GM daughter OPEL (Eisenach) has not yet joined the association, even the enterprises of the public Treuhandanstalt sometimes seem to have to be forced into the employers' associations. After unification, employers' associations and unions introduced and propagated the German system of industrial partnership into East Germany, peacefully and full of pride. The sudden pressure on labour costs and profits and the high unemployment rate give an indication of the precarious nature of that compromise, and they show indirectly that the European unification produced much milder effects or at least that the increased competition was mitigated by more prosperous circumstances.

Currently the anticipation of post-Maastricht developments in industrial relations does not receive much attention in Germany. The Treaty of Maastricht has almost fallen out of sight, not only because of the tardy approval process in Denmark and the UK, but also because today only one country (Luxembourg) would qualify for the EMU. Germany's inflation and debt rate distinctly excel the proposed maximum standards. Neither does the enlargement of the European Community, with applications for membership of Northern and Eastern European countries and Austria, nor the coming into being of the European Economic Space, with the EFTA countries (except Switzerland) underwriting the free trade and the social regulations of the EC treaties, do currently draw much public attention in Germany.

The current neglect of EC developments does certainly not adequately reflect their long-run importance for the German economy. There is no unanimity whether a similar statement holds true for the growth of EC social policy institutions.

5. Conclusions: The Direction of the Integration Effects

5.1 Downward Intervention

European legislation and court rulings have left some marks on German labour market regulation. While there are examples of a lowering of German social minimum standards, there are distinct counter examples, too; in the health and safety area we find both. The requirements for the equal treatment of men and women have been more pronounced in the EC than in Germany. EC regulation has a marked influence on the German political order and on policy outcomes, both in public sector labour markets and via lifting educational barriers to labour mobility.

Through EC economic policies other supranational impulses may have affected employment levels and structure, and hence indirectly the bargaining relationship between unions and employers. Market protection against outside competitors, biased or neglected subsidy control, and the indecision versus the national closing of public sector markets are examples of EC downward intervention into labour markets and bargaining positions.

5.2 Upward Delegation

In the past, the indirect and perhaps even unintended influences of the Bundesbank-steered European Monetary System seem to have been the most important case of upward delegation with German export and employment enhancing effects. The protection and subsidising of problem-ridden industries in the entire EC through Commission and Council of Ministers policies present another example of indirect labour market regulation.

The slow implementation of public sector deregulation shows that the attenuation of the national power to presume fiscal employment policies is more than reluctantly accepted.

Evidence for a direct and explicit upward delegation of social policies is rather scant. European works councils are not spreading like direct foreign investments, the "Social Dialogue" is in its current form confined to rather general recommendations. European collective agreements are far away, and even in cross-border regional labour markets there is stronger evidence for the competition of national standards and thus a tendency to lower German standards than for a preparedness of the unions of competing countries to "protect" German standards.

The Social Protocol to the Maastricht Treaty provides that the EC Commission would allow national voluntary agreements of the social partners to have priority over the EC regulations. This provision aroused the resistance of the German unions which are not willing to allow their peak association, the Deutsche Gewerkschaftsbund, suddenly to acquire the right to bargain collective agreements, a right non-existent in the German national context. Some time elapsed before the German unions had noticed this possibility of shifting powers in the Maastricht Treaty - this delay itself hinting to the slowness of growth in interest in European policies on the side of the unions.

On the employers' side, large single enterprises traditionally play a strong role and lobby in Brussels like in any other capital. It does not come as a surprise therefore that UNICE established an Advisory and Support Group (UASG), composed of single companies, in 1990 (cf. Tyszkiewicz 1991:93).

5.3 Horizontal Interdependence

Global and European competitive pressures have not hit German industries and companies all to the same extent. Decentralized reactions and adaptations are therefore to be expected, and this is, in my view, the most important consequence of horizontal interdependence. The "new voluntarism" (Streeck 1992) in German industrial relations gives corporate and establishment

actors a greater say and leads to a "new complexity" in employment conditions, whereas the differences between major European competitors and German companies will be diminishing. The developments in East Germany and their apparent repercussions for West Germany are a sign of what the European Monetary Union would mean for the traditional system of industrial relations in Germany: tensions to adapt locally, a strengthening of microcorporatist interest mediation, and the challenge for the hitherto dominating unions and employers' associations to cope with this increased diversity or fragmentation. Most likely there will be a general preparedness for local actors to set for lower than the habitual standards in order to avoid redundancies and unemployment.

Diversified developments and local or enterprise specific bargaining do not imply lower or worse bargaining results in any case, because local circumstances may offer chances to experiment and to set examples unachievable sector- or nationwide at any given point in time for either party. In Germany, there are indications that some unions will merge in the near future (e.g., the unions in mining, leather, and in chemistry industry). Such a strategy of combining resources to succeed in diversified "arenas" could be an answer to the splitting of companies, which like IBM Germany, try to escape a single strong bargaining partner, in this case the IG Metall, and withdraw even parts of their operations from the employers' associations. Conservatism and the rigid pursuit of overarching objectives will most likely neither strengthen the traditional bargaining parties nor foster economic and employment growth. Flexible, adaptive action and suitable realignments of hitherto separated national workers and employers representations could be a better strategy. There are indications that the German government has only a limited preparedness and capability to fund union policies in East Germany that insist on the fulfillment of bargaining agreements the cost of which can only be borne by third parties, i.e., the tax payers. The governmental pressure to admit "opening clauses" to bargaining agreements will intensify, i. e., the temporary undercutting of collective bargaining agreements through works agreements in emergency situations (as for instance proposed by the federal government in June 1992, cf. Kittner/ Lang 1992: 6).

The ongoing process of the internationalization of markets carries with it the dissolution of relative national uniformities. Whether employed and unemployed labour in general will lose or

gain by increased decentralization is open to debate. To cope with regional and corporate specificities the German national as well as the supranational actors will have to accept these new lower levels of cooperation and conflict resolution in industrial relations - unless they want to lose control of the developments altogether. The German unions' reluctance to regulate atypical work was meant to hold these precarious types of employment contracts down, but it resulted in a loss of active interest representation for those who opted for - or were forced into - these types of employment. In a more general vein: Streeck (1992) deplores the weakening of explicit public market correction and regulation and, in his eyes, the likely failure of a supranational federal welfare state in favour of 'private' agreements; for him "...1992 amounts to the formal ratification of a steadily creeping devaluation of the vast political resources that have come to be organized in and around the nation-state" (Streeck 1991: 339). But Streeck himself notes that European collective bargaining will - if at all - firstly succeed within - multinational-enterprises (ibid.: 344). Unions in the future will have to cope simultaneously with this decentralization - and with the international scarcity of jobs. A change of policies vis-à-vis these structural developments is inevitable. Whether one calls this "forced adaption" or "a challenge for modernization" says more about authors and how they deal with 'the end of the dream of everlasting prosperity' (B. Lutz) than about the unambiguous tendency towards differentiated industrial relations themselves. With a view on Germany, Turner (1992: 46) takes an optimistic stance and highlights the local adaptability of employers and unions: Facing rapid changes in Germany and in Europe, "... German unions have found effective responses ...The particular institutional framework in which they operate has made such effectiveness possible." There is some evidence, firstly, that the German economy and employment have overall gained through the Single Market programme, and secondly, that German actors slowly learn to play European roles, and finally that in the pre-Maastricht history of 'the European welfare state' the supranational policies have often eased the due, though slow and laborious renovation of German industrial relations.

The Maastricht Treaty could further stimulate and help to regulate this move towards international decentralization.

6. Bibliography

- Bastian, J./K. Hinrichs* (1990): 1992 im Visier. Der europäische Binnenmarkt als Herausforderung für gewerkschaftliche Arbeitsmarktpolitiken. In: Deubner, C. (Hrsg.): Europäische Einigung und soziale Frage: Möglichkeiten europäischer Sozialpolitik, Frankfurt a.M., New York: Campus 1990, S.89-111
- Beckmann, D./G. John/U. Wathling* (1991): Europa '92: Grenzenloser Sozialstaat oder unsoziale Grenzenlosigkeit. In: Heine, M./K. P. Kisker/A. Schikora (Hrsg.): Schwarzbuch EG-Binnenmarkt: die vergessenen Kosten der Integration. Berlin: Edition Sigma Rainer Bohn S.115-132
- Birk, R.* (1989): Der Einfluß des Gemeinschaftsrechts auf das Arbeitsrecht der Bundesrepublik Deutschland. In: Recht der internationalen Wirtschaft 34(1989), S.6-15
- Birk, R.* (1990): Die Folgewirkungen des europäischen Gemeinschaftsrechts für das nationale Gemeinschaftsrecht. In: Europarecht, 25(1990), Beiheft 1, S.17-33
- Birk, R.* (1991): Freizügigkeit der Arbeitnehmer und Harmonisierung des Arbeitsrechts. In: Lenz, C. O (Hrsg.): EG-Handbuch Recht im Binnenmarkt. Berlin, Herne: Neue Wirtschafts-Briefe 1991, S.297-330
- Brokmann, W.* (1992): Arbeits- und Gesundheitsschutz in EG-Richtlinien - dargestellt am Beispiel der "Bildschirm-Richtlinie". In: Angewandte Arbeitswissenschaft (1992), Nr.131, S.44-66
- Buigues, F.; Ilzkovitz, F.; Lebrun, J.-F. (Hg.)* (1990): Industrieller Strukturwandel im europäischen Binnenmarkt: Anpassungsbedarf in den Mitgliedstaaten. Europäische Wirtschaft/Soziales Europa, Sondernummer 1990
- Coen, M.* (1992): Europäische Gemeinschaft und Tarifautonomie. In: Betriebsberater 47 (1992), S.2068-2070
- Däubler, W.* (1992): EG-Arbeitsrecht auf dem Vormarsch. In: Neue Zeitschrift für Arbeits- und Sozialrecht, 9(1992), S.577-585
- Dell'Aringa, C., D. Marsden, A. Meixide, R. Richardson, D. Sadowski, J.-J. Silvestre* (1992): The Transition to the Single Market and the Pressures on European Industrial Relations systems. Report for the EC Commission DGV, Ms. Oct. 1992

- Deppe, J.* (1992): Euro-Betriebsräte in Unternehmen. In: *Personal* 44(1992), S.459-461.
- Deutsche Bundesbank* (1991): Monatsberichte 43(1991)
- Deutsche Bundesbank* (1992): Monatsberichte 44(1992)
- Deutsche Bundesbank* (1993): Monatsberichte 45(1993)
- Edelmann, H.* (1992). Die Europäische Arbeitnehmerfreizügigkeit nach Art. 48 EWG und ihre Auswirkungen auf den Zugang zum deutschen öffentlichen Dienst. Frankfurt/a.M.: Lang 1992
- Eichener, V.* (1993): Social Dumping or Innovative Regulation? Processes and Outcomes of European Decision-Making in the Sector of Health and Safety at Work Harmonization, Ms. Bochum: Ruhr-Universität Bochum 1993
- Erasmý, W.* (1992): Der EuGH konterkariert nationales Arbeitsrecht. In: *Der Arbeitgeber* 44(1992), S.856-860
- Fischbein, W.*(1992): Behördengeschäfte - Öffentliches Auftragswesen in Europa. In: *Unternehmen und Gesellschaft* 26(1992), S.16-17
- Gerstenberger, W.* (1990): Bundesrepublik Deutschland. In: Buigues, F.; Ilzkovitz, F.; Lebrun, J.-F. (Hg.) (1990): Industrieller Strukturwandel im europäischen Binnenmarkt: Anpassungsbedarf in den Mitgliedstaaten, Europäische Wirtschaft/Soziales Europa, Sondernummer 1990, S.161-181.
- Gross, E./G. Syben* (1992): Lohnvergleiche und Arbeitskräftewanderungen in der europäischen Bauwirtschaft. In: *WSI-Mitteilungen* 45(1992), S.11-23
- Herrmann, A./W. Ochel/M. Wegner* (1990): Bundesrepublik und Binnenmarkt '92. Perspektiven für Wirtschaft und Wirtschaftspolitik, (= Schriftenreihe des Ifo-Instituts für Wirtschaftsforschung; Nr.126), Berlin, München: Duncker u. Humblot 1990
- Hromadka, W.* (1991): Die EG zu atypischen Arbeitsverhältnissen und zu Arbeitszeitfragen. In: *Hromadka, W.: Personalmanagement - Möglichkeiten und Grenzen flexibler Vertragsgestaltung*, Stuttgart: Schäfer 1991, S.141-151
- Institut für Arbeitsmarkt- und Berufsforschung, IAB (=Institute of Employment Research)* (1992): Zahlen-Fibel: Ergebnisse der Arbeitsmarkt- und Berufsforschung in Tabellen. Nürnberg 1992

- Keller, B./B. Henneberger* (1992): Die Zukunft der Industrial and Labour Relations im öffentlichen Dienst der Bundesrepublik Deutschland. In: *Die Personalvertretung* 35(1992), S.193-205.
- Kittner, M./K. Lang* (1992): Abkehr vom sozialstaatlichen Prinzip. In: *Der Gewerkschafter* 40(1992), S.4-7.
- Klemm, K.* (1992): Berufliche Bildung und das Projekt des einheitlichen Binnenmarktes. In: *Sadowski, D./Timmesfeld, A.(Hrsg.): Ökonomie und Politik beruflicher Bildung - Europäische Entwicklungen*, Berlin: Duncker & Humblot 1992, S.61-78
- Konstanty, R./B. Zwingmann* (1989): Europäische Einigung und Gesundheitsschutz in der Arbeitswelt. In: *WSI-Mitteilungen* 42(1989), S.558-566
- Partikel, H.* (1990): Die Arbeitsschutzpolitik der Europäischen Gemeinschaften auf der Grundlage der Einheitlichen Europäischen Akte. In: *Deubner, Christian (Hrsg.): Europäische Einigung und soziale Frage: Möglichkeiten europäischer Sozialpolitik*. Frankfurt a.M., New York: Campus 1990, S.124-140
- Riegel, R.* (1992): Die gescheiterte Neuregelung des Zugangs zum öffentlichen Dienst in der Bundesrepublik Deutschland - zugleich ein Beitrag zum Verhältnis von europäischem Gemeinschaftsrecht und mitgliedschaftlichem Dienstrecht. In: *Zeitschrift für Tarifrecht* 4(1992), S.135-139.
- Sadowski, D.* (1993): Die Binnenmarktwanderung in der Europäischen Gemeinschaft: Immobilität trotz sinkender Barrieren? In: *Buttler, F. et. al. (Hrsg.): Europa und Deutschland - Fs f. Heinrich Franke*. Stuttgart: Kohlhammer 1993, S.483-490
- Schäferkord, Gerhard* (1992): Europäische Einflüsse im deutschen Arbeitsrecht. In: *Personal*, 44(1992), S.462-465.
- Schill, W.* (1991): Konzeptionelle und praktische Fragen der Konvergenz in der Europäischen Gemeinschaft. In: *Weber, M. (Hrsg.): Europa auf dem Weg zur Währungsunion*. Darmstadt: Wissenschaftliche Buchgesellschaft 1991, S.104-132.
- Streeck, W.* (1991): More Uncertainties: German Unions Facing 1992. In: *Industrial Relations* 30(1991), S.317-349.
- Streeck, W.* (1992): From Market-Making to State-Building? Reflections on the Political Economy of European Social Policy, Ms. Univ. of Madison-Wisconsin 1992.

Turner, L. (1992): Institutional Resilience in a Changing World Economy: German Unions Between Unification and Europe. WZB dp FS I 92-6, August 1992.

Tyszkewicz, Z. (1991): UNICE: The Voice of European Business and Industry in Brussels. In: Sadowski, D./ O. Jacobi (eds.): Employers' Associations in Europe: Policy and Organisation, Baden-Baden: Nomos 1991, S.85-102.

Wank, R. (1992): Der Einfluß des europäischen Arbeitsschutzrechts auf die Rechtslage in der Bundesrepublik Deutschland. In: v.Maydell, B./F. Schnapp (Hrsg.): Die Auswirkungen des EG-Rechts auf das Arbeits- und Sozialrecht der Bundesrepublik. Berlin: Erich Schmidt, S.63-88.

Walwei, U., Werner, K. (1993): Employment and Social Dimensions of the Single European Market. IAB (Institute of Employment Research). Labour market research topics No. 1 1993.

Wild, P. (1992): Bildungsplanung im Rahmen des Binnenmarktes und Finanzverfassung. In: Ress, G./T. Stein (Hrsg.): Vorträge, Reden und Berichte aus dem Europa-Institut Nr.279. Universität des Saarlandes: Europa-Institut, Saarbrücken 1992.

Wissenschaftlicher Beirat der Gesellschaft für öffentliche Wirtschaft (1992): Die Auswirkungen der EG-Richtlinien zum öffentlichen Auftragswesen auf die öffentlichen Unternehmen. Berlin 1992.