

## Impacts of Decentralisation – Erosion or Renewal? The Decisive Link between Workplace Representation and Company Size in German and Danish Industrial Relations

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## **Impacts of Decentralisation – Erosion or Renewal? The Decisive Link between Workplace Representation and Company Size in German and Danish Industrial Relations\*\***

**Abstract** – In recent decades Germany and Denmark have constituted survival areas for the classical IR system in an era that has otherwise largely been characterised by the deregulation and disorganisation of industrial relations. From the mid-1990s onwards, however, it has to varying degrees been possible to observe erosive tendencies in these hitherto sturdy fortresses of “organised decentralisation”. It is the main thesis of this article that the dualistic German system makes it more difficult for the German parties to adapt the bargaining system so that their overall coordination can be preserved even though the required decentralisation is introduced. This thesis is investigated through an extensive comparison of the drivers, contexts and outcomes of decentralisation in Danish and German industry over the last 10-15 years. The article concludes that the single-channel representation system and the more homogeneous composition of company sizes in Denmark are core explanations why Denmark exhibits fewer erosive trends than Germany and more signs of renewal in the development towards multi-level regulation.

### **Nach der Dezentralisierung: Erosion oder Erneuerung? Zusammenhänge zwischen Unternehmensgröße und betrieblicher Interessenvertretung in den deutschen und dänischen industriellen Beziehungen**

**Zusammenfassung** – Die deutschen und dänischen industriellen Beziehungen galten in den letzten Jahrzehnten als Ausnahmen in einer vornehmlich von Deregulierung und Desorganisation geprägten Zeitperiode. Ab Mitte der 1990er Jahre lassen sich jedoch Erosionstendenzen in den beiden repräsentativen Modellen der “organisierten Dezentralisierung“ konstatieren. Die Hauptthese dieses Beitrags ist, dass die Implementierung einer Dezentralisierung schwieriger für die deutschen Tarifpartner ist, weil das duale System ihre gewerkschaftliche Koordinierung erschwert. Diese These wird durch eine vergleichende Analyse der Triebkräfte, Kontexte und Folgen der Dezentralisierung in den industriellen Sektoren von Dänemark und Deutschland in den letzten 15 Jahren belegt. Daraus lässt sich schließen, dass das monistische System und die homogene gewerbliche Struktur Dänemarks die Hauptklärungen dafür sind, warum das dänische System im Prozess der Dezentralisierung mehr Anzeichen von Erneuerung und weniger von Erosion aufweist als das deutsche System.

Key words: **Danish and German Industrial Relations, Workplace Representation, Company Size, Decentralisation of Collective Bargaining, Multi-level Regulation**

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## Introduction

In recent decades a number of European countries – including Germany and Denmark, which are the focal point of the present article<sup>1</sup> – have constituted survival areas for the classical industrial relations (IR) system in an era that has otherwise largely been characterised by the deregulation and disorganisation of industrial relations. While the systems of collective bargaining in countries such as Great Britain and the USA have eroded, it proved possible in many European countries in the 1980s and up to the mid-1990s to adapt national IR systems to the conditions created by intensified internationalisation.

This process has been summed up by Traxler (1995) in the concept *organised decentralisation*. Other researchers – such as Ferner/Hyman (1992, 1998) – have used the term *coordinated decentralisation*. In Denmark we speak of *centralised decentralisation* (Due et al. 1993, 1994) and in Germany the term *controlled decentralisation* has been used (Schulten 2005).

Organised decentralisation is based on the premise that the collective bargaining system can adapt to new requirements so that the resulting regulation ensures viable economic solutions both for the private sector and for society as a whole and at the same time secures wage earner interests. In some of the national IR systems that initially adapted to internationalisation it seems over the last decade to have become increasingly difficult for the negotiating parties to maintain the functionality and effectiveness of the system. It would now appear that we may be running up against the limits of organised decentralisation. From the mid-1990s onwards it has also been possible to observe erosive tendencies in the hitherto sturdy fortresses of Denmark and Germany (Madsen et al. 2001; Hassel 1999).

The controlled delegation of bargaining rights within the framework of national sector agreements seems to be moving towards a form of multi-level regulation *which* is characterised by individual agreements, collective bargaining and legislation, *which* contains trends towards centralisation, decentralisation and internationalisation, and *which* includes many actors with different interests characterised by new norms and values. While organised or centralised decentralisation was still characterised by a *hierarchical control* of a strong top-down nature, multi-level regulation is not necessarily hierarchical. It may feature a “bottom-up” influence instead of “top-down” control. But there may also be a changing or non-existent connection between the various levels. It is a more horizontal ad hoc form of control – either in the form of *market control* or of

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*network control*. Multi-level regulation is thus characterised by the fact that there is no permanent controlling centre.

The aim of the present article is, therefore, to examine and discuss the consequences of the trends towards multi-level regulation using the German and Danish IR models as case studies. If the collective representation of wage earners is not strengthened in step with decentralisation, it must be assumed that the result will be erosion. This raises questions concerning both the overall control of the central sector organisations and the character of enterprise-based regulation as collective agreements. But if new structures are developed locally in a continued interaction with the parties at sector level, the collective framework for a labour market regulation may be preserved. In this case it may be anticipated that the collective bargaining system will be renewed through a shift of emphasis from sector to enterprise level, i.e. an adaptation to the new conditions created by increased international competition.

This makes Denmark and Germany a natural choice for comparison because the two countries' IR systems differ not least in regard of the way in which local interests are represented. The voluntary Danish system has always featured relatively strong links between the parties at sector level and the parties at enterprise level. Here we have a *single-channel system of representation* that ties members, union representatives (shop stewards) and local union clubs at individual companies to the local trade unions and on to the national trade union associations and bargaining cartels at sector level (Due/Madsen 2006). This is a considerable resource that trade unions have been able to draw upon and develop in the course of the decentralisation process, because it creates possibilities for preserving coherence in the safeguarding of interests.

In contrast to this there is the German legislation-based IR system, in which the representation of interests is formally divided through a *dual-channel system of representation*. The statutorily guaranteed "Tarifautonomie" at organisation level – and thereby regulation via collective bargaining corresponding to the Danish model – is supplemented by a statutorily determined local representation system at enterprise level through works councils. These councils are elected by and from among the employees and are formally separated from the trade unions. Streeck and Müller-Jentsch have pointed out that for many decades the German dual system established an effective division of labour between sector level bargaining, where agreements on sector-wide wage levels and working hours were concluded, and the works councils, which facilitated co-determination for employees at company level (Streeck 1992; Müller-Jentsch 2003). However, decentralisation has undermined this division of labour inasmuch as the unions have reluctantly had to accept that the works councils have taken over some of the bargaining relations. This requires increased backing from the unions, but in a period with steadily declining membership and resources, this support cannot be given sufficiently effectively (Müller-Jentsch 2003: 54; Due/Madsen 2003; Zagelmeyer 2004: 74).

It is therefore the *main thesis* of the present article that the dualistic German system makes it more difficult for the parties to adapt the bargaining system so that their overall coordination can be preserved even though the required decentralisation is introduced. In other words the development of multi-level regulation is more liable to create a risk of erosion of the bargaining system in Germany than in Denmark, at the

same time as the possibilities of renewing the bargaining system are greater in Denmark than in Germany.

We shall examine this thesis through an empirical analysis of the developments within two key fields of regulation: pay and working hours. In addition, we shall examine more tangible indications of problems in the two collective bargaining systems. As the idea of organised decentralisation sees the maintenance of high membership rates and not least high agreement coverage as prerequisite to a controlled decentralisation process, we shall examine the development of these parameters in the two countries. High organisation densities and high agreement coverage are signs of stability in the bargaining system, and a decline in these parameters can therefore be regarded as erosive trends. We shall here restrict ourselves to recent decades and the private sector, which is the core component of the IR system, inasmuch as although a strongly organised public sector may be seen as a stabilising factor, it is the private sector that determines long-term developments. First, however, we shall give a brief analysis of the drivers behind and the context for the initiation of extensive decentralisation processes in the two countries.

### **The drivers and contexts of decentralisation in Denmark and Germany**

Tendencies towards decentralisation of collective bargaining have from the 1980s and onwards been identified in a large number of countries in the western world. Katz has analysed and compared varying decentralisation trends in Sweden, Australia, Germany, Italy, the United Kingdom and the United States, whereas Traxler has tried to identify the direction of change in collective bargaining in 18 OECD countries (Katz 1993; Traxler 1995). Traxler concludes on the developments in the 1980s that two types of decentralisation can be identified, an organised decentralisation in countries like Austria, Denmark and West Germany and a disorganised decentralisation in countries like Great Britain and the United States (Traxler 1995: 16).

The main reason why we can observe the process of decentralisation across so many countries seems to be the continuing intensification of international competition, which forces employers not only to increase productivity but also to step up the introduction of new products. In order to meet these demands many employers have introduced new forms of work organisation that enhance flexibility and performance at company level. In consequence of this development employers have wished to introduce flexible working hours and new performance-based pay systems as well. Nevertheless, whereas managers can introduce new forms of work organisation on the basis of the managerial prerogative, working hours and pay are often subject to sector level bargaining. Employers have therefore pushed for decentralisation in order to increase the scope of company level bargaining on these important issues.

The question why we can locate stronger trends towards decentralisation in some countries than others has been the subject of some debate. Intensified competition can only to a limited extent explain the differences *between* countries, since most countries and many branches are heavily exposed to intensified competition. Other factors like increased EU regulation or privatisation of public utilities have influenced the decentralisation process in the European context, but this does not explain the differences in decentralisation between European countries. In order to fully grasp the dif-

ferences, it appears necessary to focus on the different institutional settings of the collective bargaining systems that frame the responses to the challenges of increasing competition.

Here the question of decentralisation relates to the classic discussion on convergence/divergence between national industrial relations systems (Kerr et al. 1960; Hall/Soskice 2001; Katz/Darbishire 2000). The pressure from the intensified international competition is expected to result in converging decentralisation processes across countries, but in reality the pressure is mediated through varying contexts and varying strategic choices leading to different forms and contents of decentralisation.

In order to understand the decentralisation processes in Denmark and Germany we need to know more about how the response to intensified competition was framed in these two countries. Many factors are involved in initiating the decentralisation of collective bargaining, but some are considered more important than others. Katz finds evidence for three plausible explanations (drivers) of decentralisation: firstly, shifts in bargaining power most often accompanied by weakening of trade unions (the power thesis), secondly, spread of new technology and work organisations introducing flexibility and employee participation (the work organisation thesis), and thirdly, decentralisation and diversification of corporate structures/workers interests (the corporate structure thesis). Katz concludes on the basis of his case studies of the 1980s that although all three theses to varying degrees explain parts of the processes, the work organisation thesis has the strongest explanatory power with regard to the six countries examined.

The Danish and German experience supports the view that Katz' theses should not be interpreted as mutually exclusive but rather as complementary. The work organisation thesis has powerful relevance for both countries (as for many others), since it has been the changing needs for flexibility and performance at company level in consequence of increased international competition that have made employers push for decentralisation. A core example of this bottom-up process is the development of deviating practices for working hours in Danish and German companies throughout the 1980s and 1990s, respectively. However, this explanation cannot on its own explain the actual timing of the decentralisation process, which differs in the two countries. In order to explain the different timing in the Danish and German contexts, we have to take a closer look at the response at sector level to the employers' push for decentralisation.

In both countries the process of decentralisation was initiated in times of economic crisis and rising unemployment related to the increasing pressure of international competition. In Denmark this occurred in the 1970s and 1980s, whereas it took place in Germany in the 1990s (also influenced by the economic crisis in the wake of reunification) (Hassel 1999: 484). But the exact timing of the introduction of decentralisation schemes in the sector level agreements depended strongly on developments at sector level.

In Germany the decentralisation was initiated in the context of the severely weakened position of the trade unions, which supports Katz' power thesis. From the mid-nineties and onwards a growing asymmetry in the German membership rates could be

identified (much lower union densities than membership rates for the employers' organisations) (Müller-Jentsch/Weitbrecht 2003; Carley 2005; Ebbinghaus 2000; Lesch 2004; Jacobi 2003). Option clauses and later more comprehensive opening clauses (i.e. the Pforzheim agreement from 2004) were introduced in a way that allowed trade unions to keep some control of developments. The use of the more comprehensive clauses was conditional on the control and approval of the social partners leaving especially smaller and less unionised companies with little chance of implementing them (see below). This can be interpreted as the weakened unions' response to the pressure from (larger) companies in a labour market with a dualistic system of representation at company level. In times of falling union densities – especially at smaller companies – the trade union will lose control if the bargaining is decentralised to less unionised companies. At larger companies, where the union density remained high, some control could still be sustained, but time was short. Some of the larger companies were already deviating from the sector level agreement through so-called closet agreements<sup>2</sup> (especially on the subject of flexible working hours) forcing the trade union to introduce decentralisation schemes in order to keep control at these sites.

In Denmark the explanation for the introduction of the decentralisation schemes in the late 1980s must be found elsewhere. Even though the trade unions' position had been weakened owing to the economic crisis and rising unemployment rates over more than a decade, union density did not fall as in Germany (Carley 2005; Ebbinghaus 2000; Lesch 2004; LO 2005). Decentralisation schemes were not introduced until a power struggle within and between the employers' organisations and the trade unions was resolved at the end of the 1980s. This suggests that another thesis should be added to Katz' theory on drivers of decentralisation, the intra- and inter-organisational thesis, in which power struggles concerning the structure of the collective bargaining system can determine the exact timing of a decentralisation process. This thesis is inspired by Sissons' theory on the role of employers' organisations in generating collective bargaining systems, but it goes one step further. Sisson points out that the organisation on the employers' side determines the level of collective bargaining and thereby also the power structures within the trade unions. The Danish case demonstrates that this is not the whole story. As our investigation of the creation and development of the Danish collective bargaining system has shown, the employers do not determine the level of bargaining unilaterally. The level is a result of a complex struggle, in which inter-organisational alliances between certain trade unions and certain employers' organisations often play a crucial role (Sisson 1987; Due et al. 1994; Mailand Simonsen 1996).

From the late 1970s and onwards there was a struggle within both the federation of the Danish employers' organisations (DA) and the federation of Danish trade unions (LO) to determine whether the collective bargaining should continue to take place under the control of the main organisations or confederations at nationwide level or should be decentralised to the sector level. There were many different inter-

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<sup>2</sup> The concept of closet agreements refers to company level agreements that are bargained between management and workers' representatives but are concealed from the trade unions because of their deviating content.

ests across the sectors (small trade unions/employers' organisations vs. larger ones). The struggle continued up through the 1980s until an organisational reform on the employers' side created a new, strong association, the Confederation of Danish Industries (DI). An alliance was concluded between the DI and a new bargaining cartel on the employee side, the Central Organisation of Industrial Employees in Denmark (CO-Industri), creating a system with trendsetting centralised bargaining in the industrial sector from the early 1990s. The final outcome of the battle was a *centralised decentralisation* of the Danish collective bargaining system (Due et al. 1994; Due/Madsen 2006). Trade unions had confidence in their ability to agree on comprehensive decentralisation schemes in relation to the reform, because the system of representation at company level had traditionally been strong in Denmark. The single-channel system allowed a direct link between the trade unions and company level bargaining, and the take-up of the system (especially the election of shop stewards) was high even among smaller companies (see below). Furthermore, unlike the German works councils, the shop stewards had already at that time attained comprehensive bargaining rights at company level. This had to do with the highly decentralised bargaining on wages (developed up through the 20th century), and the reproduction of the central bargaining system's negotiating culture at company level concurrently with this process.

While the sector level developments seem to have played an important role for the exact timing of the far-reaching decentralisation schemes in Denmark and Germany (following the intra- and inter-organisational thesis and the power thesis respectively), other institutional developments also appear to have influenced the shape and outcome of the decentralisation processes. The system of representation at company level shows an important interaction with the development at sector level, to which we shall return later.

### **Coverage of collective agreements, membership rates and the question of size**

The coverage of collective agreements gives an immediate impression of the extent of regulation by collective agreement. But, at least in the long term, the precondition for preserving high coverage seems to be strong organisations for both employees and employers because the legitimacy of the system can only be preserved through sufficient representation (Visser 2005: 297). If we turn first to the trend in agreement coverage in Denmark – see Table 1 – no sign of erosion can be observed. On the contrary, against the background of a rise in the 1990s it has proved possible to keep coverage at a high level.<sup>3</sup>

As late as in the mid-1990s there was in Western Germany a clearly higher coverage than in Denmark, while in Eastern Germany it was almost on a par with the Dan-

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<sup>3</sup> In the 1990's the coverage of the collective agreements in Denmark was subject to much debate, because the calculations of the coverage were not very precise. One survey by Scheuer suggested levels between 50 and 60 percent (Scheuer 1994), but this was corrected in his later surveys, which concluded levels to be between 70 and 80 percent (Scheuer 2000, 2004). From the end of the 1990's DA has conducted yearly calculations reaching conclusions similar to those of Scheuer's later surveys.



ish level. Today, after a marked decline the level even in the western part of Germany is substantially lower than in Denmark with just below two-thirds of wage earners in Western Germany against just over three-quarters in Denmark. The trend away from collective bargaining is particularly marked in Eastern Germany, where it has not proved possible to raise the level since reunification, so that, on the contrary, it has been in something resembling free fall with the result that in 2004 only half of all wage earners were covered by a collective agreement.

**Table 1: Coverage of collective agreements\* in the private sector by establishments and number of employees in Germany (West and East) and Denmark 1995-2004**

	Western Germany			Eastern Germany			Denmark		
	1995	2001	2004	1996	2001	2004	1997	2001	2004
Establishments	62%	48%	43%	43%	28%	23%			
Employees	83%	71%	66%	73%	56%	50%	76%	77%	77%

Sources: Müller-Jentsch/Weitbrecht 2003; Dribbusch 2005a; DA 1998, 2002, 2005.

\* Collective agreements concluded at both sector level (multiemployer bargaining) and enterprise level (single employer bargaining). Danish figures are available only for the number of wage earners calculated as fulltime employees.

Union membership in Denmark has almost always been proportionally higher than in Germany, and this difference has increased in recent years – even though the Danish unions have begun to lose members. Union density in Denmark is still close to a level where 8 out of 10 wage earners are organised, while this is the case for less than one in four German wage earners (Müller-Jentsch/Weitbrecht 2003; Carley 2005; Ebbinghaus 2000; Lesch 2004; LO 2005).

In Denmark it has caused concern that especially LO, which primarily covers the group of skilled and unskilled workers, has lost members. On the other hand, the two other major organisations, FTF (the Confederation of Salaried Employees and Civil Servants in Denmark) and AC (the Danish Confederation of Professional Associations), which organise wage earners with further and higher education, has grown steadily into the new century, so it is only quite recently that the total number of union members has fallen marginally.

The Danish concern about union density is set in relief if we compare the two IR systems' core areas, the organisations in the iron and metal industries. Here, for example, IG Metall in Germany lost 26.6% of its members in the period 1991-1997 alone, and the decline has continued since then, although it has slowed down a bit in recent years. Where IG Metall lost 4% of its members from 2004 to 2005, the loss from 2005 to 2006 was 2% (Zagelmeyer 1998; Dribbusch 2005b; Beese 2006). In comparison the bargaining federation or cartel for Danish manufacturing industries, the Central Organisation of Industrial Employees in Denmark, lost only 1.6% of its members in the period 2000-2005 ([www.co-industri.dk](http://www.co-industri.dk)).

As might be expected, the size of the workplace is a decisive parameter for agreement coverage. In both countries coverage is lowest in small firms and highest in the big companies – a factor that will become especially problematic in a decentralisation process (Dribbusch 2005a; Scheuer/Madsen 2000; DA 2005).

Another important aspect of agreement coverage is the difference between *sectors*, where the levels of coverage in both Germany and Denmark are high in the traditional manufacturing industries and considerably lower in the service sector (Dribbusch 2005a; Scheuer/Madsen 2000; DA 2005). With the changes in the private sector brought about by increased international competition, there has been a shift from manufacturing to service, in particular to modern service enterprises in information technology, etc. In these new fields it is difficult for the unions to organise the employees and secure agreements. Precise figures are not available, but there are indications that it is easier in Denmark with its high union density to cover these fields as well (Marginson et al. 2003; Müller-Jentsch/Weitbrecht 2003; Due and Madsen 2003). Even though the Danish model is under pressure in consequence of structural changes in the private sector, the problem appears to be far more pronounced in Germany: “In Germany by contrast the new ICT economy is said to be ‘essentially an agreement-free space.’” (Marginson/Sisson 2004: 201).

It must be premised that the sector level agreements are of decisive importance for the maintenance of centralised/controlled decentralisation in the two countries. The control of regulation exerted by the collective bargaining system takes place not least through the broad coverage of sector level agreements. It is therefore worth noting – see Table 2 – that in Germany there has been a certain weakening of the sector level bargaining system in the trends exhibited by the agreement system as a whole over the past decade. The number of employees covered by sector level agreements only (multi employer bargaining) has been shrinking as well.

**Table 2: Number of employees covered by association-level\* agreements in Germany 1995-2004**

	Western Germany			Eastern Germany		
	1995	2001	2004	1996	2001	2004
Employees	73%	63%	55%	56%	44%	36%

Sources: Müller-Jentsch/Weitbrecht 2003, Dribbusch 2005a.

\* Association-level agreements here refer to collective agreements concluded at sector level.

Although the German sector level agreements are still of great importance for wages and working conditions in the companies covered, there has nevertheless been a decline in their importance even in these companies owing to an increasing use of opening clauses (see below). Opening clauses have especially been used to conclude company level agreements on working hours and the so-called “pacts for employment and competitiveness” (Seifert/Massa-Wirth 2005). While it can still be said that the framework for these agreements is to a high degree concluded at sector level, what we

increasingly see in reality are renegotiations between the parties at the local level, so that management and the works councils have assumed a growing influence on the content of collective negotiations (Schulten 2005; Dribbusch 2005a).

In view of this development, it is a reasonable question if a single sector level agreement can meet the diversity of demands for regulation, for instance among companies of different size, found within a whole sector. If you compare company sizes in Denmark and Germany, you will not at first glance find great differences, since the industrial sectors of both countries are dominated by small and medium-sized enterprises (SME's). Less than two percent of companies in both countries had 250 employees or more in year 2000 and were thereby classified as large companies. Comparing the number of employees within each company, however, gives us a quite different picture. In Germany 10 percent points more employees than in Denmark were employed in large companies (see Table 3).

**Table 3: Company sizes\* in the Denmark and Germany year 2000 (industry and energy sectors)**

	<i>Percent of companies</i>				<i>Percent of employees</i>			
	Micro	Small	Medium	Large	Micro	Small	Medium	Large
Denmark	75,5	18,2	5,0	1,3	8,8	19,2	26,5	45,5
Germany	67,2	23,8	7,2	1,9	7,2	14,5	23,0	55,4

Sources: European Commission 2003 (figures from Eurostat).

\* Company sizes are based on the number of employees: Micro (1-9), small (10-49), medium (50-249) and large (250+).

The figures indicate that the main difference between the structure of the Danish and German industry is the large presence of mega size companies in Germany (for instance German automotive companies). The sector level agreement is therefore faced with greater heterogeneity at company level, which might make it more difficult to meet the regulatory needs adequately in all companies (Streeck 2004: 11). Traditionally, smaller firms have preferred sector level bargaining in order to save regulatory costs, whereas larger firms have pushed for decentralisation to increase the scope for local adjustments of the regulation (and thereby savings on operational costs). Smaller firms do not have the workers representation at enterprise level (union representation, works councils) or the organisational back up for management (HRM departments) to institutionalise company level bargaining. The resources needed to implement some of this bargaining could well by far exceed the savings and improvements achieved from introducing locally adjusted solutions within the framework of the sector level agreement.

This discrepancy between firms in times of decentralisation may be smaller in a country like Denmark with a less heterogeneous composition of company sizes. The sector level agreement has traditionally been faced with very few mega size companies, which favours a form of overall regulation more in accord with the needs and capacities of smaller firms. In order to make use of the possibilities for company level bargaining in smaller firms it is, however, still necessary to have a platform for institu-

tionalising such bargaining especially on the side of the employees (works councils, shop stewards).

### **Representation at enterprise level**

As a result of the high degree of decentralisation local representation is becoming ever more important for the unions' possibilities of preserving the collective agreements at sector level. In both countries there is in particular a lack of representation at the small establishments, and as the structure of the private sector in both countries is at the same time characterised by a preponderance of small and medium-sized enterprises, this carries with it an immediate risk that the decentralisation of the agreements system will lead to major problems.

In Germany the local representation of worker interests takes place primarily in the works councils, the establishment of which can be demanded at enterprises with five or more employees. In fact a mere 10% of such enterprises have works councils. The difference between large and small enterprises is marked, inasmuch as only 7% of the small enterprises with up to 50 employees in East and West Germany have works councils, while the figures for enterprises with more than 200 employees are 80% in the West and 75% in the East respectively (Dribbusch 2005a). The Danish work councils or co-operation committees in the private sector can be established in enterprises with more than 35 employees, and it is estimated that at least 70% of these enterprises have in fact set up such committees (Jørgensen 2003). In general, then, coverage is higher in Denmark than in Germany. In respect of small enterprises, a sector study shows that consultation committees are to be found in 10% of the enterprises with less than 35 employees ([www.hkprivat.dk](http://www.hkprivat.dk)).

In Germany 53% of wage earners in the West and 62% in the East are employed at enterprises without works councils (Dribbusch 2005a). Although works councils also are evaporating owing to a higher direct employee participation in the new work organisations, this is a serious problem for organised decentralisation, since the councils constitute the primary local channel of collective representation. The lack of coverage becomes even more problematic in Germany, because it is accompanied by a very low union density – the second pillar in the dual German structure (Hassel 1999: 502).

It should be added that the Danish co-operation committees are only a supplementary instrument for obtaining influence on pay, working time, etc. The primary representation of employee interests is undertaken by the shop stewards, who have a key function in the implementation and administration of the collective agreements, and who form an integral part of the general bargaining structure. For the Danish trade union movement the outcome of decentralisation will primarily depend on how finely meshed the network of union representatives is. There are no precise figures on the number of shop stewards, but as the co-operation committees are linked with the system of union representatives, it may be concluded that this network covers at least as much ground as that covered by the committees. A conservative estimate is that not less than 80% of Danish employees are covered by shop stewards. The representative system is thus more deeply and closely connected with the bargaining system in Denmark than in Germany. There is still a problem in Denmark with a number of

small enterprises that lack formal representation. However, they are to some extent brought into the system via the tight network of links to their members at these workplaces that many local unions have built up and developed (Jensen et al. 1999).

### **Decentralisation of wage bargaining**

When it comes to wage negotiations there are marked differences between the Danish and German collective agreement systems. It is not least in this area that the otherwise centralised Danish IR system has historically been characterised by a high degree of decentralisation. From the establishment of the system at the threshold of the 20<sup>th</sup> century a flexible wage system has been evolved at the heart of the collective bargaining system – the iron and metal industry. Since 1902 it is only the minimum wage tariff that has been negotiated at sector level, while the actual wage increases have been negotiated between the parties at the various enterprises. As part of the development of centralised decentralisation around 1990 the flexible wage system was extended to other areas, so that in the private sector, which is covered by the two big main organisations or confederations LO and DA, 85% of wage earners are under the flexible wage system and only 15% receive, the so-called normal tariff, by which wages are to a high degree determined at sector level (Due/Madsen 2006).

In Denmark decentralisation in the field of wages has developed into a form of multi-level regulation, in which both sector and workplace levels play a role in determining the rate of wage increases at the individual enterprise. Even though the average wage increase ends up close to the increase in the minimum wage negotiated in the sector level agreement, wage levels and wage increases can vary considerably from enterprise to enterprise. There is thus a potential for substantial flexibility in the regulation of wages that permits adaptation to local conditions, but wage bargaining is at the same time developed into a horizontal coordination by (the network of) union representatives across Denmark, which from the viewpoint of employers may inhibit flexibility.

Denmark has a long tradition of such networks generated through local unions, union clubs, shop stewards and personal relations. They have developed in step with the flexible wage system. Because of the increasing demands confronting union representatives as a result of internationalisation the networks are of great importance for the working out of local solutions – as also documented in other studies among union representatives in Denmark (Kristensen 2003). These networks can therefore be regarded as enhancing a sustainable decentralisation, since the exchange of resources and experience in these networks helps union representatives to co-operate with management in reaching solutions adapted to local conditions within the framework of the sector level agreement. This trend towards multi-level regulation thus points in the direction of a renewal of the collective bargaining system in Denmark. Decentralisation opens up the possibility of horizontal regulation at the local level as an integrated *supplement* to the sector level agreement.

In Germany there are signs of similar network formations. An interview study of enterprises in the metal industries of Denmark and Germany in 2005 revealed that not only Danish shop stewards but also a number of German workers representatives (Betriebsräte) from works councils in Baden Württemberg participated in regional

networks (Ilsøe 2006).<sup>4</sup> These networks in Germany have also been documented in other studies (Glassmann 2004).

The exchange of experience and the support encountered by the German Betriebsräte in the networks were in their view particularly important for smaller enterprises, which have few resources for formulating local agreements. This lack of resources among employees at German enterprises also appears from a recent survey among Betriebsräte, where the majority (53%) answer that they find it difficult to tackle decentralisation, among other things because it strengthens the position of management and leads to a polarisation among employees as a consequence of differentiated pay and working conditions (Dribbusch 2005c). It is, however, an open question to what extent small and medium-sized enterprises in Germany participate in networks and receive feedback from large enterprises that are pioneering the new trends. The networks with which we have been in contact have primarily consisted of Betriebsräte from larger enterprises, which had, moreover, very limited knowledge of smaller enterprises in their area (Ilsøe 2006).

Wage increases are negotiated somewhat differently in Germany and in Denmark. In Germany the real wage increase is determined in the sector level agreement and is not subject to local bargaining at individual enterprises (except in cases of single employer bargaining). Nevertheless, the legislatively regulated *Günstigkeitsprinzip* does offer the possibility of agreeing better conditions for employees locally on specific points in the sector level agreement (Tarifvertragsgesetz: § 4). Here, improvements have to date been interpreted as absolute improvements on specific elements and not as improvements that form part of a major trade off, by which employees for instance accept working longer hours without an increase in pay but receive other benefits instead. This has, however, given rise to much discussion, since employers would like to see a broader interpretation of this *Günstigkeitsprinzip*. The employers have, however, not yet succeeded in changing the interpretation, since the principle is regulated by law, and they have not been able to make use of the weakened position of the trade unions without support from the state.

In respect of pay, the principle has so far been used to raise wages or to add extra bonuses or Christmas and holiday allowances to the agreed wage in order to pay employees over and above the sector level agreement (Hassel 1999: 486). These supplements are negotiated with the works councils. Over time this has led to the development of a wage gap between enterprises that are able to pay extra and those that may find it difficult enough to meet the sector-agreed wage increases. Figures from 2000 show that roughly every second enterprise in the West and every fifth in the East pay more than the sector level agreement, but in general this trend is receding. On average wages are 11-12% above the level of the sector level agreement at these enterprises (Schnabel 2003: 97-98).

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<sup>4</sup> In 2005 Anna Ilsøe carried out an interview study among management and employee representatives at 10 Danish and German (Baden-Württemberg) metal companies (Ilsøe 2006). In addition, interviews were conducted with regional and national representatives of the relevant union and employer associations.

It is especially larger enterprises that are able to pay more, and the structure of wage bargaining has therefore proved problematic for small and medium-sized enterprises (Hassel 1999: 500-501). In the first place, they have less economic room for manoeuvre than large enterprises and therefore greater difficulty in handling a fixed wage rise in times of crisis. With their more limited resources small enterprises may find it harder to find the money for a general pay increase of, say, five percent. Second, many of the large enterprises play a decisive role in the negotiations for the sector level agreement, which means that the sector-determined pay increase probably ends up closer to their possibilities for rewarding their employees.

All in all, the historically highly decentralised wage negotiations in Denmark have contributed to the development of an enterprise-based bargaining system as an important element in the overall regulation of pay via the sector level agreements. This development has been strengthened in the past decade. In Germany wage negotiations have always had and still have a far more centralised character, and sector level bargaining has in reality been setting the level of a maximum wage as opposed to the Danish minimum wage. The possibilities of adapting agreements to the situation of the individual enterprise continue to be limited. This is particularly a problem for small and medium-sized enterprises and has probably contributed to the fall in agreement coverage and the erosion of the German system because the lack of flexibility increases the potential for conflict between the parties and motivates such enterprises to seek to avoid collective regulation (Hassel 1999:500, 501-503).

### **Local adjustment of working hours via opening clauses**

Decentralisation of sector level agreements takes place in both countries via a number of opening clauses in the actual agreements that permit local negotiation of, for example, working hours and thereby a more flexible and locally adjusted regulation in the labour market. There are a number of different types of opening clauses, such as hardship clauses, location clauses and option clauses (Jacobi 2003: 35-36). However, the way in which they are formed looks somewhat different in the two countries.

The so-called hardship clauses have the longest history in both Denmark and Germany. This is the possibility of negotiating an (often radically alternative) local agreement between the union and the enterprise in the event of insolvency or the like, so that the workplace can be preserved. In the German metal industry these clauses were written into the sector level agreements in the mid-1990s, but in reality they were used only to a limited extent because the unions were reluctant to recognise hardship situations, and management was reluctant to give unions full access to information concerning the enterprises' economic situation. There was simply a lack of trust between the parties (Hassel 1999: 497).

Location clauses, which are in contrast a more recent phenomenon in both Denmark and Germany, by definition permit highly alternative agreements at individual enterprises *without* the requirement of acute crisis (Jacobi 2003: 35-36). In Germany there is a form of location clause in the metal industry, by which the so-called Pforzheim Agreement from 2004 makes it possible to negotiate substantial departures from the sector level agreement (Ergänzungstarifverträge) in respect of, for instance, pay and working hours, if this can strengthen the enterprises' competitiveness and secure

employment. This is, however, conditional on the regional employer associations and unions participating in the negotiations and endorsing the final agreement. In practice therefore it can be difficult to distinguish the use of hardship and location clauses from one another. In Denmark the so-called Pilot Schemes in the collective agreement for the manufacturing industry make it possible, given local agreement, to completely disregard four chapters – for example, the chapter on working hours – *without* the requirement of the sector level parties' control and endorsement (Industrial Agreement 2004: §50; Collective Agreement for Technical and Administrative Salaried Employees 2004: §25). This form of location clause has existed since 2000, but it was only in 2004 that control by the parties at sector level ceased to be a requirement. The Pilot Schemes will, however, only be renewed in this form at the next bargaining round in 2007 if the sector level parties agree on it. Unlike their German colleagues Danish shop stewards have a *de facto* right of veto that gives them a braking mechanism in relation to agreements at the local level under the Pilot Schemes. In Germany the corresponding mechanism is situated outside the enterprise in the requirement for the sector level parties' control and endorsement of the use of Pforzheim.

This kind of clause is proportionally more used among companies in Denmark than in Germany, although the number of employees covered is higher in Germany.<sup>5</sup> The company level agreements concluded in Germany as a result of the decentralisation process have proved to be much more radical than the Danish company level agreements. To date no company level agreements on working time without pay have been concluded in Denmark, whereas there are several examples of this in Germany (for instance at Siemens and at DaimlerChrysler in 2004). This could be explained by the absence of pay flexibility in the German collective bargaining system motivating employers in the industry to sneak pay flexibility through the back door of working time flexibility in times of massive international competition. However, it must be said that the general application of location clauses is relatively limited in both countries, and that such alternative possibilities cannot alone constitute the driving force behind decentralisation on working hours.

Both German and Danish sector level agreements contain a wide range of option clauses, which – as indicated by the name – refer to clauses in the sector level agreement, by which local parties can *choose* between specified possibilities or are free to develop solutions within the framework of the chapters on working time (Jacobi 2003: 35-36).<sup>6</sup> In Denmark some of these clauses were introduced as early as in the 1980s (against the background of a rising number of closet agreements), when a number of

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<sup>5</sup> In October 2005 a total of 281 *Ergänzungstarifverträge* were registered under Pforzheim throughout Germany (Gesammetall 2005: 19). For the manufacturing industry in Denmark, by way of comparison, approx. 40 so-called Pilot Schemes departing from the chapter on working hours had been concluded in June 2005. The last figure is an estimate calculated by CO-industri and DI.

<sup>6</sup> Manteltarifvertrag 1997: §7.5-7.6. Tarifvertrag zur Änderung der Manteltarifverträge und der Tarifverträge zur Beschäftigungssicherung in Baden-Württemberg 2004. Industrial Agreement 2004: §9; Collective Agreement for Technical and Administrative Salaried Employees 2004: §8.



decentralisation schemes were implemented in response to an intensifying economic and employment crisis.

In both countries option clauses are widely used to introduce flexible working hours at company level. Surveys from 2004-2005 show, that 51% of all companies in Germany and 51% of all companies in Denmark make use of flexible working hours (Riedmann et al. 2006: 4). Other surveys show that flexible working hours also prove to be widespread when we look solely at companies covered by collective agreements. More than half of the German enterprises covered by collective agreements in the private sector have used option clauses to implement flexible working hours (Dribbusch 2005c). In Denmark (where the corresponding figure applies only to the industrial sector) this is the case for about one-third of Danish enterprises covered by collective agreements.<sup>7</sup>

In some ways it is surprising that flexible working hours appear to be as widespread in Germany as in Denmark, inasmuch as the German regulation system is traditionally described as more rigid than the Danish, but it makes good sense when looking at the wider range of possibilities for flexibility in the two countries. Where the Danish flexicurity model gives greater scope for external numerical flexibility (hiring and firing), German legislation makes it very difficult and expensive for German employers to make use of this form of flexibility, and they therefore have to turn to more internal forms of flexibility such as flexible working hours (OECD 2004: 70-72; Andersen/ Mailand 2005: 11-14). This is also reflected in a generally lower mobility in the German labour market.<sup>8</sup>

Decentralisation in the field of working hours seems, however, to have greater depth in Denmark. One might perhaps even speak of a trend towards individualisation, underpinned by, among other things, a possibility in the sector level agreement from 2004 for entering into local framework agreements on flexible working hours, under which individual agreements can be concluded. There also appears to be a trend towards individualisation of the day-to-day administration of working hours in Denmark. In this way Danish wage earners experience to a slightly higher degree than German wage earners that they can have an influence on their own working hours (Ilsoe 2006; [www.europeansocialsurvey.org](http://www.europeansocialsurvey.org)). This may be seen as an expression of a reciprocal trust between employees and management. The somewhat stronger mutual trust in the Danish case might be explained by the stronger presence of works councils and shops stewards securing a power balance between management and employees at company level.

Even though the probably most important reason for the restricted use of hardship and location clauses is that enterprises can attain considerable flexibility through the widespread option clauses, a number of other factors may be involved. One of them may be the difficulty connected with using clauses at small and medium-size

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<sup>7</sup> The figure is a result from an internal survey in DI and was given to us during an interview with a representative from DI.

<sup>8</sup> Earlier studies indicate that half of all employees in Denmark have seniority of 4 years or less, while half of all employees in Germany have a seniority of 11 years or more (OECD 1995).

enterprises. Thus, of the 281 company level agreements under Pforzheim concluded in Germany by October 2005 only 68 were entered into within the group of enterprises with up to 200 employees (Gesamtmetall 2005: 19). In comparison a total of 69.7% of enterprises had fewer than 100 employees in the metal and electric industry alone in year 2004 ([www.gesamtmetall.de](http://www.gesamtmetall.de)). This might therefore suggest that small and medium-sized enterprises do not have the same possibilities for concluding alternative agreements as large enterprises – perhaps because they have fewer resources. It seems not unlikely that this is a problem in Germany, because, as already noted, the occurrence of works councils is far smaller than the occurrence of co-operation committees and shop stewards in Denmark, and the use of opening clauses presupposes local representation of the employees, i.e. some kind of institutionalisation of the bargaining system at enterprise level.

The restricted use of Pforzheim at smaller enterprises in Germany may also have to do with the circumstance that in Germany, as opposed to Denmark, the unions are required to participate in negotiations and control the outcome. In connection with our interview study in Baden-Württemberg in autumn 2005 a leader from a metal company with about 1500 employees commented that he found it difficult to get IG Metall to accept his wish to use Pforzheim, as he was unable to exert the same pressure on the union in respect of securing employment as larger enterprises (Ilsøe 2006). This suggests that the process of decentralisation in Germany mainly has been driven by managers of mega size companies and adjusted to their needs.

In respect of flexible working hours it must be concluded that local possibilities within the framework of the sector level agreements are very comprehensive in both Germany and Denmark. According to Schulten the German unions' belief that they can retain their influence through a controlled decentralisation has proved to be an illusion (Schulten 2005). It is doubtful whether the sector level agreements give the Danish organisations a stronger grip on developments. Here we have a situation where the real decisions take place at enterprise level in both countries. But in Denmark there is a general confidence that the collective basis can continue to be secured through the local union representatives' negotiation rights, i.e. the belief that multi-level regulation will lead to renewal rather than erosion.

### **Conclusion**

Comparative IR research rightly places Denmark and Germany, despite their differences, in the group of countries that through co-ordinated decentralisation processes resisted the pressure from increased international competition on the collective agreement systems. But the point of the present article is that over the last decade, in which the pressure from international competition has intensified, the two IR models have moved in different directions.

The German system seems to have had greater difficulty in adapting to the new conditions and therefore exhibits clear signs of erosion (falling membership rates and agreement coverage, company level agreements on working hours without pay), while in spite of incipient problems the Danish system has continued to be able to resist the pressure through adjustments that have made it possible to preserve the coordinating role of the sector organisations and the collective character of the system in the face

of continued decentralisation. This can be ascribed to the single-channel system of representation at Danish companies with a widespread presence of shop stewards who (unlike the German works councils) have substantial bargaining rights. Furthermore, there is in the Danish system – to a higher degree than in the German system – a platform for renewal in the local networks originally formed in relation to decentralised wage bargaining. These networks might be a platform for the evolution of horizontal coordination processes. The centralised decentralisation, which continued to be marked by the sector organisations' hierarchical control, is developing into a multi-level regulation in which coordination also takes place through bottom-up processes, but in such a way that the unions' overall control does not disappear. All in all, there is a stronger and more clear-cut representation of the workforce at enterprise level in Denmark. To this it might be added, that the relations between employees and management would seem to be more trust-based and consensus seeking in Denmark than in Germany (perhaps as a reflection of the different systems of representation and their different take-up). This is exemplified, as mentioned above, by the problems experienced in Germany in making use of opening clauses because of lack of trust between the parties, and the greater self-determination enjoyed by employees in Denmark in the administration of the flexible working hours.

It is also possible to observe tentative trends towards renewal in Germany. A number of studies have concluded that the German works councils (Betriebsräte) remain a relative stable institution in larger companies, and that some of these works councils frame new and integrative forms of bargaining in step with decentralisation (Kotthoff 1998; Frege 2002; Klikauer 2002; Behrens/Jacoby 2004; Haipeter/Lehndorff 2005). It is in our view here important to underline that the weak take-up of works councils among SMEs also remains relatively stable and the potential for renewal seems to be present only in the very largest of companies. These enterprises play a decisive role in the sector negotiations, and decentralisation is to a large extent adapted to their conditions with high collective agreement coverage, organisation densities and strong employee representation – even though it is perhaps the small and medium-sized enterprises that have most need for flexible solutions in respect of wages and working hours.

It is our conclusion that differences in representation at enterprise level and the accompanying difference in negotiating cultures constitute an important part of the explanation for the erosion-versus-renewal phenomenon in the two models. But in light of the analyses of the present article another important explanation must be added. In our view, it is the *combination* of the heterogeneity of the industrial sector (many mega size companies in a structure with a preponderance of SMEs) and the dual system of representation that makes it difficult to avoid erosion of the collective bargaining system in Germany. Therefore our thesis is only partly confirmed.

The dual structure of the German system of representation makes in itself the German collective bargaining system vulnerable to erosion in the process of decentralisation. The structure makes it more difficult to develop a consensus oriented bargaining culture between management and trade unions, because there will always be a natural fear of losing influence from the side of the trade unions. This makes the

platform for company level bargaining less solid and reduces the survival capacity of the overall bargaining system in times of weakening positions of trade unions. But the heterogenic composition of company sizes intensifies the risk of erosion, since the social partners have evolved a main focus on the mega size companies in relation to sector level bargaining, leaving considerations on the needs and abilities of smaller firms out of the picture. Smaller firms without works council in Germany do not have shop stewards with direct links to the trade unions or strong networks (like in Denmark). They have therefore very limited possibilities to navigate in and profit from decentralisation schemes and both managers and employees may leave the bargaining system all together. If the membership rates continue to drop, the risk is that the organisations and the systems of representation get completely decoupled. An important question is therefore, how the social partners can keep or integrate the majority of SMEs in a collective bargaining system moving towards a multi level regulation handicapped by a dual structure of representation at company level. In times of falling membership rates (and therefore fewer resources) this manoeuvre is not easy, since it involves extra costs and extra work to handle a more diverse population of companies.

### Perspectives

Our conclusion is in good accord with the findings of recent IR research, in which the question of the limits for *organised decentralisation* is becoming an increasingly central theme. The erosion trends appear from, for example, works by Marginson/Sisson/Arrowsmith (2003), Marginson/Sisson (2004) and Visser (2005). Marginson et al. speak of the corrosion of sector level agreements, when too much is delegated to enterprise level. This new trend is particularly marked in Germany. For instance, agreement-free areas based in high-tech enterprises are being developed in similar ways as in Great Britain (Marginson et al. 2003; Marginson/Sisson 2004).

Visser concludes that the decisive role of sector level agreements is being attacked from various sides, and that their survival seems to be in part dependent on self-denial through the use of opening clauses and the like. He stresses that – with Scandinavia as an explicit exception – what is taking place is a “... process of institutional shrinkage of the collective agreement as a source of regulation.” (Visser 2005: 297).

The problems are seen as a result of a loss of control by the hitherto dominant sector organisations. In our view, what is at stake is not just the question of control, but at least as much the development of relations at enterprise level. The question of a power balance is crucial at this level as well. Danish experience has shown that the organisations are willing to give up control, because they feel confident that the local parties are capable of carrying out the task in accordance with the negotiating culture that has evolved between the parties at sector level. This has been possible due to a single-channel system of representation and a relatively homogeneous composition of company sizes. There is therefore good reason why in Denmark, rather than speak of organised decentralisation, we use the term *centralised decentralisation* precisely to underscore that a decisive element is the reproduction of the negotiating culture and of the main rules governing proceedings at the hitherto dominant sector level. In this way an ability to make distributive negotiations integrative has developed from top to bottom.

Furthermore, an integrative consensus-seeking negotiating culture has emerged at local level, and this has at the same time been accompanied by the right to conclude agreements (Walton/McKersie 1965; Walton et al. 1994; Due/Madsen 2006). As our empirical analysis shows, this difference in bargaining rights at company level makes decentralisation mean something different in Denmark and Germany.

For these reasons the IR system has seen a renewal in the direction of a multi-level regulation in which there is ample space for bottom-up processes based on horizontal network control. This has not, however, led to erosion because the local parties are, so to speak, carrying on the culture despite the fact that the vertical control is so weakened that the sector level can no longer be regarded as the dominant centre. Here the parties are to a higher degree prepared to respond to signals from the enterprises. The balance has tipped. But the Danish model is intact.

It should perhaps be added that there is one fly in the ointment – also in the Danish context. It is obvious that decentralisation has taken place in a cross field between the management prerogative and the right to conclude agreements, i.e., the conflict of interests fundamental to the regulation of pay and working conditions. Each time parties at sector level negotiate further decentralisation, employers have attempted to restrict the right to conclude agreements so that management can have the largest possible scope of action, while the unions have insisted that the collective bargaining rights must be fully delegated to the local level. So far, the collective bargaining rights have been preserved, but – as already mentioned – with a certain trend towards individualisation.

Despite the general belief within the trade union movement that decentralisation can be handled, it is still a major challenge. It not only requires a maintenance but also a strengthening of the local level and first and foremost of the union representatives at the enterprises (Visser 2005: 302). In some sector organisations it is possible to discern a certain anxiety that the local representatives will not be able to fulfil this task in the future if further decentralisation schemes are introduced. Even though formally they still have right to conclude agreements, it will be management at the enterprises that will have the real say, thereby undermining the process of centralised decentralisation. (Due/Madsen 2006).

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