



Employment relations in micro and small enterprises - literature review

Country profile: Germany

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Introduction

Research on industrial relations in Germany is generally lagging behind if compared to the US or Great Britain. This holds true for all company size classes. Furthermore, most of the existing German studies and investigations are focussed on large enterprises, where organisational structures for worker representation are mandatory by law.

Employment relations in small and medium-sized firms remain, as one interviewed expert put it, almost unexplored. As German Industrial Law (Betriebs-verfassungsgesetz) requires only companies with more than five employees to deal with some form of worker representation, little to no attention is given to micro enterprises. There are no dedicated studies for this group of companies. However, some of the investigations on “general” small and medium-sized businesses include also data for companies with less than five employees.

Literature analysis

Collective representation of workers and employers

German Industrial Law - “Betriebsverfassungsgesetz”

Collective representation of workers and employers in German enterprises is regulated by German industrial law, in particular by the “Betriebs-verfassungsgesetz” (Hilbert 1990, p. 178). All tasks related to worker representation and participation are assigned to works councils (“Betriebsräte”). Companies with more than five and less than 20 employees are allowed to elect a chief of works (“Betriebsobmann”) as a representative for the employees, larger companies may introduce works councils with several members. The “Betriebsverfassungsgesetz” excludes the possibility of a works council (or a chief of works) protected by law for enterprises with less than five employees.

Collective representation in practice

Works councils are common in large firms and an exception in SMEs. Two thirds of the SMEs included in the investigation of Hilbert (1990, p. 178) do not have a works council. Differentiated into “small” (2 to 49 employees) and “medium-sized” enterprises (50 to 499 employees), the results are even more extreme. Less than 10 % of the small companies have established a works council, in the case of medium-sized firms this amounts to 75 %. Wassermann believes that the share of small firms with regular works councils has decreased even more and may be as low as 4 % for enterprises with less than 20 employees in the year 2000 (interview Wassermann).

He also specifies the reasons for the unpopularity of works councils (Wassermann 1992, p. 35-36):

- Enterprises with less than five employees are excluded from the regulations of the “Betriebsverfassungsgesetz”;
- In enterprises, where the employees enjoy good working conditions and are allowed to exert some influence on corporate decisions, there is no incentive to introduce formal representative bodies;
- Enterprises, where employees have had bad experience with past works councils for whatever reasons are not interested to set up new ones;

Also if there is a lack of candidates for this representative function, it can sometimes be the reason not to set up a works council.

Finally, enterprises with a deplorable state of affairs do often not set up a works council, if the entrepreneur puts some pressure on the employees and they do not have any professional help from outside (“the trade union is far away”).

Worker representation in companies with no regular works councils may take two forms: Either by establishing an internal representative body (an “internal works council”) or by shadow participation (Hilbert 1990, p. 180ff.). In contrast to companies with regular works councils, entrepreneurs of companies with internal representative bodies tend to be in conflict with trade unions.

The introduction of an internal works council is intended to disrupt the influence of trade unions while allowing the employees a degree of influence on the management. Trade union support within the employee body is in such cases usually very low.

Shadow participation

Shadow participation is the prevailing form of participation in small companies. In these enterprises there usually is common agreement between both entrepreneurs and employees that the introduction of a works council is not reasonable because of the company size. Strong social cohesion makes it possible that employees and employers meet whenever necessary to discuss problems. An innovation introduced in such firms is the “Monday roundtable” (Montagsrunde), a regular briefing/meeting at the beginning of the week for both entrepreneur and staff.

Three points should be noted for shadow participation:

- Because of the spatial and social closeness, interdependencies evolve. They build the basis for innovations that are crucial for the survival of the firm. In addition, this form of participation may grant more influence on the management of a company for workers than formalised works councils.
- Functioning shadow participation makes traditional representative bodies superfluous. As a result, it is much more difficult to start initiatives for the foundation of works councils. Shadow participation thus erodes the basis for the creation of formalised worker participation and representation in SMEs.
- Shadow participation has social, factual and time limitations. Social limitations arise from the fact that mainly qualified personnel can take part. On a factual level, it is observed that issues relating to production and innovation are more likely to be discussed than, for example, issues relating to working conditions. The time aspect refers to the declining degree of influence of the employees as the company is expanding.

Health and industrial safety issues

The use of medical and safety personnel in companies is subject to regulations stipulated in the law on industrial security (“Arbeitssicherheitsgesetz, ASiG”) (Wassermann 1992, p. 44-46). It delegates the decision on the minimum time physicians have to be available for employees to industry co-operatives (“Berufsgenossenschaften”). As a result, minimum requirements differ from industry to industry. In the textile industry, for example, there need to be at least 150 employees for the mandatory presence of a physician.

There are estimates that medical services are only available in companies with more than 50 employees. The lowest level for industrial security and health issues is the designation of a safety officer

(“Sicherheitsbeauftragter”) from the body of employees. Firms with less than 20 employees usually do not have a safety officer.

Employer associations

Employers may be members of employer associations that exist for every sector. These associations offer help and advice in labour and management affairs and take part in the wage bargaining process. There is empirical evidence that companies that are not members of these associations also have more conflicts with trade unions and possess to a lesser extent regular works councils (Wassermann 1992, p. 36 and Hilbert 1990, p. 180). Unfortunately enough, there is no empirical evidence on this issue by enterprise size.

New developments

According to an interview with Wassermann (January 2001), there are discussions going on to amend German industrial law (“Betriebsverfassungsgesetz”). The amendments aim at increasing the share of works councils in small firms mainly by simplifying election procedures.

Another important trend is the growing number of house tariff agreements (“Haustarifverträge”). These special wage settlements exist for companies which have their roots in bigger companies that were at some point split into smaller business entities.

Backes-Gellner et al. (2000) conducted a study on prospects and problems for recruiting qualified personnel for SMEs. One set of questions dealt with participation possibilities for employees. The entrepreneurs were asked whether regular meetings with workers and employees take place, whether there are rewards for proposed improvements by employees and whether employees are allowed to participate in decision-making processes. 735 companies took part in the investigation. The following represents the result of a special computation of this data-base by the Institut für Mittelstandsforschung for the IfGH.

21 % of the enterprises with zero to four employees do not offer regular meetings with employees. The same is true for 11 % of both, enterprises with 5 to 9 and with 10 to 19 employees. In larger size classes the share is below 10 %. Counting also these employers who plan to set up regular meetings, one would expect from these figures that 9 out of 10 companies will hold regular meetings with employees in the near future.

Whereas less than 2 % of the companies with 0 - 9 employees do have a works council, this is true for 14 % of small companies (10 - 49 employees), 58 % of medium enterprises (50 - 249 employees) and 90 % of large companies. This means that the figures from Hilbert (1990) are still valid.

Rewarding of employees for suggested improvements is not popular among small firms. 71 % of the companies with up to four employees, 68 % of the companies with 5 to 9 and 73 % of the enterprises with 10 to 19 employees pay no money for ideas dealing with improvements. By contrast, two thirds of the companies with more than 250 employees provide a reward scheme.

Interestingly, participation of staff in decision-making processes does not depend on company size. About half of all employers of different size classes provide participation rights for their employees.

Collective bargaining

The “Betriebsverfassungsgesetz” constitutes the framework for wage negotiations and bargaining. The exceptions in this law for small companies mean that SMEs either apply the collective agreements¹ (although they are not obliged to do so) or have bargaining procedures of their own.

There is nearly no specific data available on collective bargaining in small and micro firms. It is considered to be part of general worker participation practice. As such Wassermann (interview) assumes that collective bargaining is the exception in small companies and that employer-employee relations are more of an individual nature.

Companies that apply general collective agreements voluntarily are usually part of sectors with high demand for qualified personnel. In the other cases, with individual wage settlements, the enterprises may not even be member of employer associations. These agreements are usually of lower quality (for the employees) if compared to the general collective agreement (Hilbert 1990, p. 190).

The only up-to-date empirical results on this topic stem from the special computation of the IfM for the IfGH, based on the sample used in Backes-Gellner et al. (2000): According to this, there are no collective agreements in 62 % of micro enterprises (0 to 9 employees), in 54 % of small companies (10 to 49 employees), in 44 % of medium enterprises (50 to 249 employees), and in 25 % of large enterprises.

Table 1: *Types of collective agreements in Germany according to size of company*

	0-9 employees	10-49 employees	50-249 employees	250 and more
sector agreement	68.6 %	77.4 %	74.3 %	62.8 %
house collective agreement	2.3 %	6.6 %	21.4 %	25.6 %
general agreement	30.2 %	16.8 %	8.6 %	11.6 %

Source: *Institut für Mittelstandsforschung Bonn (IfM), 2000*

Not surprisingly, general agreements are more common in micro enterprises, whereas house collective agreements can be found more often in larger enterprises (as we mentioned before, in spin-off companies).

Working and employment conditions

Wages and fringe benefits

Wages in Germany increase with company size. This holds true for workers as well as salaried employees, for men and for women. In addition, wages increase over time more rapidly in larger firms than in smaller ones. The reasons for the wage differential are numerous: Labour market effects and different prices for consumer goods in rural and urban areas play a role as well as the higher share of better paid employee positions in large firms.

¹ Collective agreements regulate payment for work in Germany. This is a contractual agreement between associations and is accorded legal validity by German Tariff Law (TVG).

² The author relates to "Gewerbe"-sectors (industry) according to the German definition.

The wage differential is not resulting from different levels of minimum wages in collective agreements - it is the result of poor control and application of these agreements in the firms. Furthermore, entrepreneurs of micro enterprises with less than five employees are excluded from tariff-binding agreements allowing them to pay less than the minimum wages established in wage settlements. The amount of extra charge on minimum tariffs can be thus considered as a measure for the efficiency of collective representation of workers in a company. Unfortunately there exists no empirical data on this.

Similar to the wages, voluntary corporate pensions and fringe benefits are also lower and less common in small firms. Fringe benefits consist of monetary and non-monetary services such as canteen services, apartments and free time activities sponsored by the firm (Wassermann 1992, p. 21-23). This can also be verified for non-monetary services by the results of Backes-Gellner et al. (2000).

Working time and flexibility

By law, employees are guaranteed to have three weeks of holidays. Collective agreements grant employees a minimum of five to six weeks of holidays in a year. Although no exact data is available on the usage of holidays it is estimated that in smaller enterprises actual holiday consumption is below collective agreements standards.

Working time duration and the position of the work time slots in a week differ greatly between large and small companies. Part-time jobs seem to be the dominant form of employment in small enterprises, especially in the case of women. 60 % of all women work in companies with less than 50 employees, 70 % of which have part time jobs with a work load of 1 to 14 hours a week (Wassermann 1992, p. 22). One fifth of all women work in enterprises with one to four employees. This size class accounts also for 44 % of all part-time jobs of female employees.

Because of capacity constraints, changing production programs and fewer possibilities for strategic planning high demands are placed on the flexibility of workers and employees in small firms. Deviations from the regular 5-day working week are common, most notably in the food and in the mechanical engineering sectors. The food sector accounts only for 6 % of total employment, but for 11 % of total overtime. The mechanical engineering sector is responsible for almost 13 % of all jobs and for 18 % of total overtime (Wassermann 1992, p. 23).

Personnel usage

The usage of personnel is also different in small enterprises. Personnel dismissals usually take a harder form in small firms as employees are more often fired. By contrast, in large companies personnel reduction is more commonly done by early retirement or can be avoided by job transfer from one department to another. The ratio of personnel dismissals to employees is calculated to be 1:9,1 for companies with 1 to 100 employees and 1:38,2 for companies with more than 1000 employees (Bosch 1983, cit. in: Wassermann 1992, p. 23; data of the year 1978).

Conflicts

There is no data available on the frequency of strikes or other militant action in small and medium-sized enterprises. Persons who have witnessed both strikes in large and in small firms only noticed that open fighting in small companies is more fierce and lasts longer because there is more at stake.

Industrial law and in particular the “Betriebsverfassungsgesetz” builds a framework for solving conflicts. It introduces procedures and grants strikers certain rights in order to protect them. However, as industrial law provides exceptions for small companies, the employees in such enterprises enjoy less protection by law. Open conflicts seem to be thus rather rare (Hilbert 1990, p. 198). In small firms the quality of the social relation between employer and worker determines how conflicts are solved.

An important factor for co-operation is the style of leadership of the entrepreneur. Domeyer/Funder (1991, p. 84-89) analysed start-ups, their organisational structures and success factors. Although many different forms of leadership were observed there was not a single case of an authoritarian leadership style. In contrast to the Wassermann analysis (1992), all entrepreneurs understood the importance of a positive working climate. The study of Kotthoff (1990) impressively shows the wide range of possible leadership styles and social systems in SMEs.

Generally, a higher degree of worker participation and less potential for conflicts is prevailing in companies where there are “high-trust” relations. High-trust relations evolve more frequently in firms which offer more autonomy to their employees and where employees find attractive alternatives in the labour market (Hilbert 1990, p. 198f.).

Size and sector considerations

Size and sector considerations are very important for investigating employment relations. First of all, it is necessary to take interrelations between company size and sectors into account. Different sectors have also different company size structures making it thus hard to distinguish size from sector effects.

As stated before, workers and employees of small companies have lower wages, less fringe benefits and less formal participation and representation possibilities than their counterparts in large enterprises. On a sectoral level this is also true for industries with a) a higher share of small businesses and b) with mainly less qualified jobs. Enterprises, where qualified personnel is needed, usually apply collective agreements and wage settlements developed for the whole branch of industry voluntarily. Many of these companies are not even member of employer associations.

A special case is the crafts sector (Wassermann 1992, p. 88), where more than 3.6 million employees can be found. The average crafts company is a micro firm with eight employees. It is estimated that the share of enterprises with regular works councils is less than 1 %.

Employees may exert some influence through journeymen committees in the crafts chambers and guilds. This, however, cannot be considered true participation in management issues and are, in addition, subject to severe constraints. For example, non-journeymen such as apprentices, are not included in these committees. Voting power is limited to a maximum of one third of all votes. Finally, voting procedures are rather undemocratic and can be used to the disadvantage of employees. As a consequence, the crafts sector needs special treatment by trade unions.

Policy implications

To increase the quality of working conditions and worker/employee participation, several policy actions have been suggested (Wassermann 1992, p. 127-134):

- First of all it is necessary to systematically collect industrial relation data for all industries, all company size classes and all organisational units of trade unions that have not yet been subject to mutual collective agreements. This is tedious task, because research on employment relations in Germany is, as Wassermann (interview) put it, “up to now exotic”.
- The second step would imply the introduction of special collective agreements for small enterprises. This would on one hand imply stronger participation on the side of representatives for both employers and employees in general wage bargaining procedures. On the other hand it is important that special wage settlements and bargaining rounds do not just result in cut-down versions of the overall agreement, resulting in disadvantages for employees.

Special participation and collective agreements can formally introduce project teams, where representatives of employers, employees and external consultants work on necessary changes in the management and organisation of a firm. Pilot projects for that purpose have established special requirements for consultants. They are asked not only to evaluate the firm according to technical or economic criteria but also to take into account changes in social life and in working conditions. This has led to new forms of consulting for SMEs.

Also training matters are important. Collective agreements should outline budget and scope of training programs for employees. With a higher degree of participation, the challenge for trade unions will not only be the teaching of theoretical and practical issues of trade union work but also the training in management and organisation principles.

Works councils in SMEs have expressed their desire to use explicit models and tools for the design of working places. This includes information on the degree of exposure to harmful substances, guidelines for the ergonomic design of working places, etc. It has taken five years to develop a catalogue of recommendations of that kind for the plastic processing industries. This clearly illustrates the complexity of this task.

There are ideas to introduce “chiefs of employees” (Arbeitnehmerobleute) for micro-firms who are acting on a local or regional level. According to Wassermann (1992) they should work on an honorary basis and their appointment should depend on proposals from trade unions. Every worker of a company with no representative bodies for employees may address the local chief of employees. The chief in turn is entitled to negotiate with the entrepreneur and to call an assembly of the workers/employees.

Finally, from the point of view of the trade unions, it is also necessary to reorganise the geographical distribution of their outlets. In areas with little industry and low employment rates representatives of one trade union might take over agendas for other trade unions. Part-time work possibilities in trade unions are also a means to foster commitment for employees' issues.

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