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Institute of Labour Law and
Industrial Relations in the European
Community
(IAAEG)

IAAEG Discussion Paper Series

**Employment-related Collective
Bargaining in Germany**

Annual Report 2001

Dieter Sadowski; Oliver Ludewig; Florian Turk

No. 2001/01

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Abstract

Employment-related Collective Bargaining in Germany

The latest trends and developments on employment-related collective bargaining in Germany during the reference period are analysed in this study. We start with a quantitative overview on recent collective agreements and then describe the main types of measures negotiated in the newly concluded collective agreements.

Keywords: collective agreements, quantitative overview

JEL-Classification: J50

These Discussion Papers partly represent preliminary work. They are published to encourage comment and to participate in current discussions. Use should take account of its provisional character.

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Glossary of German Terms

<i>Agentur zur Förderung betrieblichen Weiterbildung</i>	der	agency for the improvement of in-company continuous qualification
<i>Allgemeinverbindlichkeitserklärung</i>		extension procedure, i.e. procedure to declare a sectoral agreement generally binding
<i>Altersteilzeit</i>		part-time work for elderly employees
<i>Angestellte</i>		white-collar employees
<i>Arbeitsförderungsgesetz</i>		Employment Promotion Act
<i>Arbeitsgemeinschaften</i>		workshops
<i>Betriebsverfassungsgesetz</i>		Works Constitution Act
<i>Bundesanstalt für Arbeit</i>		Federal Employment Office
<i>Bundesarbeitsgericht</i>		Federal Labour Court
<i>Bundesländer</i>		state governments
<i>Bundesverband der Deutschen Industrie</i>		Confederation of German Industry
<i>Bundesverband Zeitarbeit</i>		Temporary Work Federation
<i>Bundesvereinigung der Arbeitgeber im Bekleidungsindustrie</i>		Employers' Association for the Clothing Industry
<i>Bundesvereinigung deutscher Arbeitgeberverbände</i>		Confederation of German Employers' Associations
<i>Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit</i>		Alliance for Employment, Initial Training and Competitiveness
<i>Bürgerliches Gesetzbuch</i>		Civil Code
<i>Deutsche Angestellten Gewerkschaft</i>		German Salaried Employees' Union
<i>Deutsche Postgewerkschaft</i>		German Post and Telecommunications Union
<i>Deutscher Gewerkschaftsbund</i>		German Trade Union Federation
<i>Fachbereiche</i>		sectoral areas
<i>Flächentarifverträge</i>		Sectoral multi-employers' collective bargaining?????

<i>Gesamtmetall</i>	National Federation of Employers' Associations of the Metalworking Industry
<i>Gesamtverband der Textilindustrie in der Bundesrepublik Deutschland Gesamtextil</i>	Employers' Association for the Textiles Industry
<i>Gewerkschaft Hotel, Gastgewerbe, persönlicher Dienst</i>	Hotel, Restaurant and personal Services Union
<i>Gewerkschaft Nahrung, Genuss, Gaststätten</i>	German Food and Restaurant Workers' Union
<i>Gewerkschaft Öffentliche Dienste, Transport, Verkehr</i>	Public Services, Transport and Traffic Union
<i>Grundgesetz</i>	Constitution
<i>Haustarifverträge</i>	company agreements
<i>IG Bergbau, Chemie, Energie</i>	Union of Mining, Chemical and Energy Industries
<i>IG Medien</i>	Media Union
<i>IG Metall</i>	Metal Industry Union
<i>Komunen</i>	municipalities
<i>Länder</i>	States of the Federal Republic of Germany
<i>Lenkungsausschuss</i>	steering committee
<i>Mitbestimmungsgesetz</i>	Codetermination Act
<i>Montanmitbestimmungsgesetz</i>	Codetermination Act for the Coal and Steel Industry
<i>Personalvertretungsgesetze</i>	Federal Staff Representation Acts (at federal and <i>Länder</i> level)
<i>Südwestmetall</i>	regional employers' association
<i>Tarifautonomie</i>	collective bargaining autonomy
<i>Tarifverträge</i>	collective agreements
<i>Tarifvertragsgesetz</i>	Collective Agreement Act
<i>Verbandstarifverträge</i>	
<i>Vereinigte Dienstleistungsgesellschaft</i>	Unified Service Sector Union
<i>Verrechtlichung</i>	juridification

Zentralverband des Deutschen German Confederation of Skilled Crafts
Handwerks

List of German Abbreviations

(BGB	Bürgerliches Gesetzbuch)
AFG	Arbeitsförderungsgesetz
ANG	Gewerkschaft Agrar- Nahrung- Genuss
BA	Bundesanstalt für Arbeit
BAG	Bundesarbeitsgericht
BDA	Bundesvereinigung deutscher Arbeitgeberverbände
BDI	Bundesverband der Deutschen Industrie
Betr VG	Betriebsverfassungsgesetz
DAG	Deutsche Angestellten Gewerkschaft
DGB	Deutscher Gewerkschaftsbund
DIHT	Deutscher Industrie- und Handelstag
DPG	Deutsche Postgewerkschaft
EFBWW	European Federation of Building and Woodworkers
EMU	(S.25)
ETUC	European Trade Union Confederation
EU	Europäische Union
HBV	Gewerkschaft Handel, Banken und Versicherungen
HGPD	Gewerkschaft Hotel, Gastgewerbe, persönlicher Dienst
IG BCE	(S.15)
NGG	Gewerkschaft Nahrung Genuss Gaststätten
ÖTV	Gewerkschaft Öffentliche Dienste, Transport und Verkehr
SEM	(S.25)
TVG	Tarifvertragsgesetz
Ver.di	Vereinigte Dienstleistungsgewerkschaft
ZDH	Zentralverband der Deutschen Handwerks

1. Employment-related collective bargaining

1.1 Identification of the main agreements and compromises in bipartite collective bargaining

The latest trends and developments on employment-related collective bargaining in Germany during the reference period are analysed in this study. We start with a quantitative overview on recent collective agreements and then describe the main types of measures negotiated in the newly concluded collective agreements.

1.1.1 Overview on recent trends in German bipartite collective bargaining

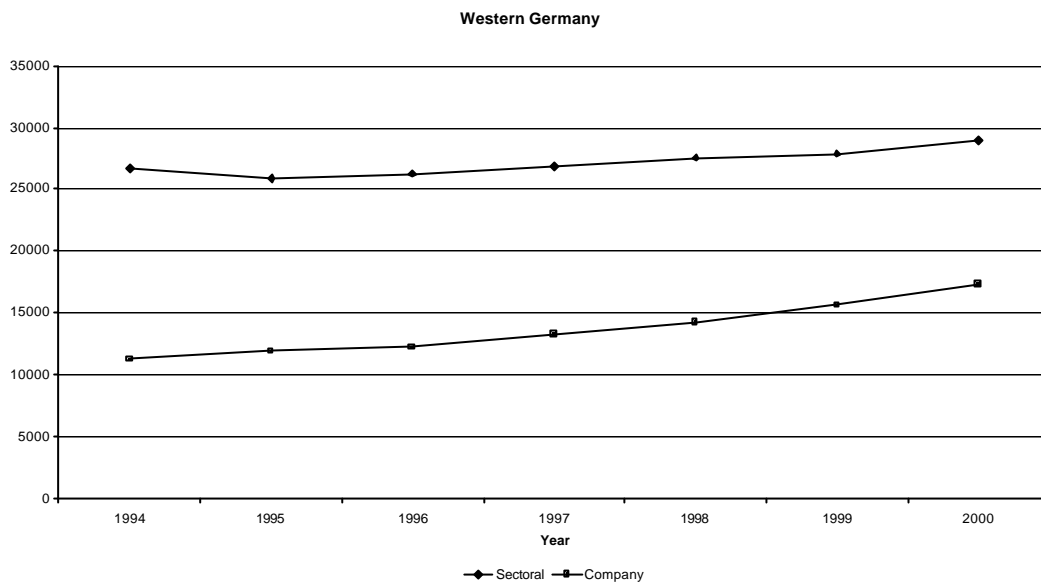
At the end of 2000, a total of 54940 valid collective agreements were registered at the *Federal Labour and Social Affairs Ministry*. Again this represented an increase in relation to the previous year (51568). The largest part of the rise can be accounted for by the increase in company agreements. Although sectoral multi-employer collective bargaining about wages and working conditions prevails in Germany (as a result there are the so-called *Flächentarifverträge*), there are increasing cases in which firms bargain directly with unions to reach company agreements (*Haustarifverträge*) or cases in which collective agreements between employer organisations and trade unions concerning individual companies are negotiated. The aim of these company agreements and company-specific collective agreements (*unternehmensbezogene Verbandstarifverträge*) is to secure employment by allowing the parties to amend the sectoral agreement – frequently by agreeing on a reduction of additional benefits or a reduction of working hours and proportionate wage cutting while simultaneously excluding redundancy dismissals. 61% of the collective agreements were concluded at the sectoral level and 39% at the company level. Table 1 illustrates the division of these agreements between the western and eastern part of Germany.

Table 1: Total Number of Valid Collective Agreements in 2000.

	Western	Eastern	Germany
Coll. Agree. at sectoral level	28932	4425	33357
Coll. Agree. at company	17345	4238	21583
Total	46277	8663	54940

Source: WSI- Tarifhandbuch 2000.

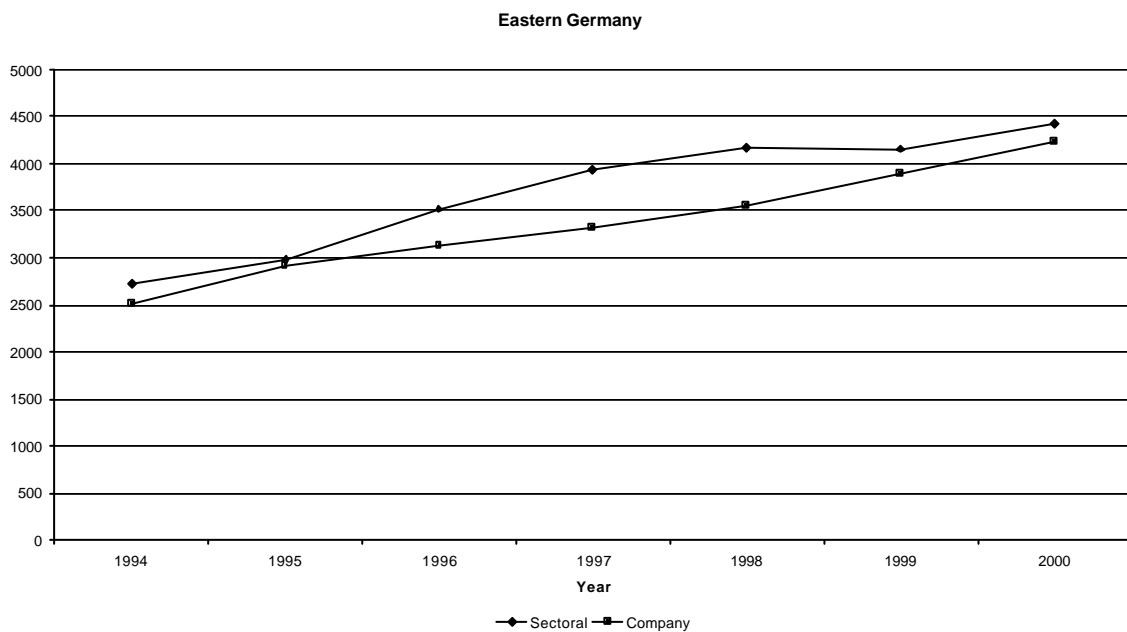
Figure 1: Valid Sectoral and Company Level Collective Agreements for Western Germany in 1995-2000



Source: BMAS 1995, 1996, 1997, 1998, 1999 and 2000.

One can see that the ratio of company agreements to sectoral level agreements is higher in eastern Germany, than in the western part of Germany. This phenomenon is not a new one. Looking at a longer period of time this trend can also be observed.

Figure 2: Valid Sectoral and Company Level Collective Agreements for Eastern Germany in 1995-2000.



Source: BMAS 1995, 1996, 1997, 1998, 1999 and 2000.

Despite the increase in company level agreements the majority of the employees are employed under a regional or sectoral collective agreement. Approximately 22 million employees are covered by regional or sectoral collective agreements and 3 million employees are employed under a company agreement.

Table 2: Newly Concluded Collective Agreements in 2000.

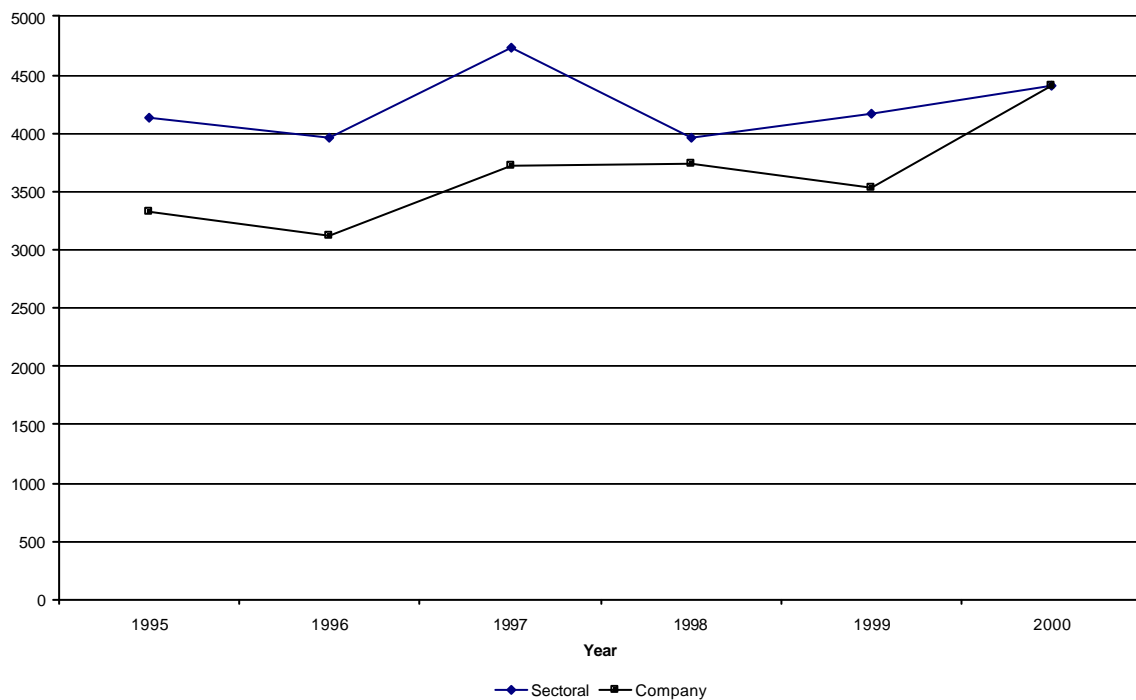
	Western	Eastern	Germany
Coll. Agree. at sectoral	3470	673	4143
Coll. Agree. at company	3738	662	4400
Total collective agreements	7208	1335	8543

Source: WSI-Tarifhandbuch 2000.

Interesting in this regard is also the number of *newly agreed* upon accords, which is of course not identical with the additional number of valid collective agreements. The majority of the newly concluded collective agreements replaced or amended existing ones. Beyond that, for more than 570 enterprises company agreements were negotiated for the first time.

However, looking at the number of newly concluded agreements over the last years, one can observe an approach of sectoral and company level accords (compare Figure 2).

Figure 3: Newly Concluded Agreements on Sectoral and Company Level in 1995-2000.



Source: WSI-Tarifhandbuch 1996, 1997, 1998, 1999, 2000.

This observation is consistent with the presence of a decentralisation trend. A further indication of a decentralisation trend can be found in the total number of firms with a valid company collective agreement. One can observe a continuous increase in the western part as well as in the eastern part of Germany during the last years (compare Figure 3).

Table 3: Number of Firms with Company-Level Agreements in 1990 –2000.

	Western Germany	increase in %	Eastern germany	increase in %	Germany	increase in %
1990	2100,00		450,00		2550,00	
1991	2300,00	9,50	850,00	88,40	3150,00	23,50
1992	2422,00	5,30	1178,00	38,60	3600,00	14,30
1993	2562,00	5,80	1404,00	19,20	3966,00	10,20
1994	2689,00	5,00	1445,00	2,90	4134,00	4,20
1995	2924,00	8,70	1588,00	9,90	4512,00	9,10
1996	3081,00	5,40	1652,00	4,00	4733,00	4,90
1997	3293,00	6,90	1685,00	2,00	4978,00	5,20
1998	3606,00	9,50	1765,00	4,70	5371,00	7,90
1999	3998,00	10,90	1843,00	4,40	5841,00	8,80
2000	4492,00	12,40	1923,00	4,30	6415,00	9,80

Source: BMAS 2000.

Supplementing last year's report we can present the data for 1999 to provide an idea of the employee and company coverage under collective agreements.

Table 4: Coverage of Collective Agreement in 1999.

Coverage of collective agreement in 1999 with respect to employees	sector. collective agreement in		firm collective agreement in	
	West	East	West	East
1999	65 %	46%	8 %	11 %
1998	68 %	51 %	8 %	13 %

Source: Institut der Deutschen Wirtschaft (2001): 32f.

Over 86% of the West German and barely 79% of the East German employees were employed with tariff-tied or tariff-oriented employers. While roughly 65% of all employees in the former *Länder* are employed under a regional or national sectoral collective agreement, only half of the employees in the new *Länder* work under such an accord. It is to be discussed whether the increase in company agreements is to be seen as a result of employment related bargaining.

In terms of organisational changes, the most important development were the merger negotiations between unions over the last 5 years aimed at creating the

Unified Service Sector Union (Vereinigte Dienstleistungsgewerkschaft, ver.di), which have been completed at a three-day launch congress on 19-21 March 2001. With nearly 3 million members, ver.di is thought to be the largest union in the democratic world. The unions involved were: the Public Services, Transport and Traffic Union (Gewerkschaft Öffentliche Dienste, Transport und Verkehr, ÖTV); the German White-Collar Workers' Union (Deutsche Angestellten-Gewerkschaft, DAG); the Postal Workers' Union (Deutsche Postgewerkschaft, DPG); the Commerce, Banking and Insurance Union (Gewerkschaft Handel Banken und Versicherungen, HBV); and the Media Union (IG Medien).

Table 5: Membership of participating unions and ver.di Union Membership

Union	Membership
ÖTV	1,480,000
DAG	450,006
HBV	440,638
DPG	445,968
IG Medien	175,04
ver.di	2,991,656

Ver.di represents members in more than 1,000 professions and with different employment status - see table 3 below.

Table 6: Ver.di membership by employment status.

Salaried employees	1,596,895
Blue-collar workers	925,761
Career civil servants	257,400
Freelancers	22,849
Others	88,430

Ver.di is structured as a "matrix" organisation with a vertical and horizontal structure. The vertical structure follows geographical lines, with a central organisation at the national level, located in Berlin, and further organisations at the regional, district and local level respectively. The horizontal structure involves 13 "sectoral areas" (Fachbereiche) - see table 4 below. Each sectoral area will have its own suborganisation at the various geographical levels, as well as at the establishment level. In addition to the geographical and sectoral structures, there will be special departments for female members, young members, older members, blue-collar workers, civil servants, "master" craftspersons, technical engineers, freelancers and unemployed members. There is also the opportunity to form optional working groups for other groups of employees such as migrant workers, workers with disabilities or gay and lesbian workers. Although the main decisions were taken at the founding congress, the integration is not completely finished yet. In the near future, ver.di is to take

some more practical measures to give the new union its final shape. One of the main aims of the merger is to achieve an integrated trade union policy for the entire service sector, including a common collective bargaining policy. The five former unions were responsible only for individual parts of the service sector and were not in a position to reach unified collective agreements. With a coordinated collective bargaining policy, ver.di will strive to achieve more effective results and combat "wage dumping" and the tendency of companies to drop out of the collective agreement system.

1.1.2 Main types of measures negotiated in collective agreements

In the following section, the recently concluded collective agreements are considered and we examine, among other things, whether the social partners included the employment related issues in the new accords. The predominant part of the collective agreements was concluded in 2000 with a term of two years. Consequently, no non-ambiguous trend can be reconstructed.

1.1.2.1. Collective agreements on wage and working time

On 23 September 2000, the IG Metall metalworkers' trade union and the two employers' associations for the textiles and clothing industry - Gesamtverband der Textilindustrie in der Bundesrepublik Deutschland Gesamttextil and Bundesvereinigung der Arbeitgeber im Bundesverband Bekleidungsindustrie - agreed on a collective agreement for the west German textiles and clothing industry. The agreement runs for two years until 30 September 2002 and its main provisions are the following: Wages and salaries will be increased by 2.4%, backdated to 1 September 2000, with a further 2.4% increase from 1 September 2001. The Christmas bonus, which was lowered in 1997 in the context of a conflict over continued pay for sick workers, will be increased from 2001 as follows: In the clothing industry by 2.5 percentage points to 82.5% of a month's pay; and in the textile industry by 3 points to 100% of a month's pay. A new agreement has been concluded on partial retirement, running for four years from 2001. Under this agreement, from the age of 57 employees are entitled to take partial retirement for a period of between two and six years. During this time, employees will receive 85% of their last annual net income and can decide whether to: Work full time for half of the period and stay off work completely for the other half; or work part time for the whole period. In 2001 and 2002, up to 3% of all employees can take partial retirement. From 2003, the annual percentage will be increased to 4% of all employees. Vocational trainees must be taken on for at least 12 months at the end of their training. In accordance with a 1999 wage settlement, wages and salaries for employees in the east German textiles industry had already increased by 2.5% from 1 June 2000. From 1 November 2000, the west German agreement will be effective for east Germany, with an extra increase of 0.5%.

In April 2001, Germany's Unified Service Sector Union (ver.di) and the Randstad temporary employment agency agreed on pay increases for about 21000 Randstad employees working in various companies. The agreement provides that from May 2001, salaried employees and blue-collar workers working for external clients will receive a pay increase of at least 3%. Employees in highly-qualified professions will receive pay increases of between 6% and 8%, while the wages for unskilled workers will increase by 15%; and in connection with the changeover to the euro, all pay rates will be increased by 0.5% from October 2001. Both parties emphasised that the wage settlement sets a good example for the whole temporary agency work sector. According to ver.di, there are still temporary agencies with minimum wages below DEM 10 per hour and not paying any social security contributions. Ver.di is putting pressure on other agencies to conclude collective agreements, arguing that temporary agency work helps to fight unemployment, but that it needs regulated employment conditions. Randstad, the leading company in this sector, introduced a company agreement which regulates working conditions for its employees some years ago. This was followed by a three-year collective agreement, concluded in April 2000 with two of ver.di's constituent unions - the German White-Collar Union (*Deutsche Angestellten Gewerkschaft, DAG*) and Public Services, Transport and Traffic Union (*Gewerkschaft Öffentliche Dienste, Transport und Verkehr, ÖTV*). This agreement contains provisions concerning monthly working time, overtime pay, holidays, the bonus system and periods of notice.

As German unions criticise temporary agency work in principle, at first sight the fact that they have concluded a collective agreement with a temporary work agency seems to be inconsistent. However, in the case of Randstad, DAG and ÖTV argued at the time that the agreement might set a good example for the whole sector, as the agreed terms and conditions were above average. Further, the bargaining parties expected that it might be possible in the future to agree on a sectoral agreement with the Temporary Work Federation (*Bundesverband Zeitarbeit*), and that the resulting agreed terms and conditions might then help to prevent companies from replacing normal employment with temporary agency work.

Another striking pay agreement was implemented with the mediation agreement between the German Air Line Pilot's Association and Lufthansa. The agreement runs for 39 month and its main provisions are the following: Salaries will be increased by 3%, backdated to 1 February 2001, with a further 9% increase from May 2001, a 2,8% increase in March 2002. For the remaining term, the revaluation of the salaries will be adapted at the average tariff-development of the previous year in Germany. In addition performance-related supplements will be paid

The German Air Line Pilot's Association represents only the cockpit-personnel. The principles according to which pay and working conditions in the air traffic sector are regulated by collective agreement have to be seen against the

background of special features of labour law applying to the aviation sector. According to §117 par.1 Works Constitution Act (BetrVG) the BetrVG applies in an unrestricted manner to the private aviation enterprise's ground operations. It is not applicable to the flight operation's employees.¹

1.1.2.2. Promotion of vocational and further training

On June 19, 2001, IG Metall and the regional employers' association (Südwestmetall) reached an agreement on qualification in the metal and electro industries of Baden-Württemberg. It's the first nationwide agreement on further training. From the union's viewpoint the agreement is to be seen as a pilot agreement with an announcement effect for later labour market policy.

Employees are now entitled to have regular talks with their employers about their need for qualification. These talks focus on how to develop professional, methodical and social skills (preservation of qualification), how to adapt to changing professional demands (adaptation of qualification) and how to qualify for different or more skilful tasks in order to occupy new positions. It is possible to carry out these talks both alone or in a group with other colleagues. If employer and employee agree on a certain type of qualification, it is carried out at the expense of the employer. If no agreement can be reached, an equally set up commission (three representatives of the works council and three representatives of the employer's side) will try to reach a consensus in companies with more than 300 employees. In smaller companies with up to 300 employees, the works council will negotiate directly with management. If these attempts to come to an

¹ The reasons for the special processing can only be presumed, not clearly ascertained. Possible reason is the fact, that it is a question of a special, not place bound kind of activity with fixed work and rest blocks. As a result, difficulties to schedule a working representation and to perform activities exist. This seems to be the justification for the prescription by the government. In the literature, it is noted that the situation is comparable with teamsters, specific installers and numerous employees of field work. More essential it can be assumed that exerting social pressure aimed at integrating flight operation employees under the rules of the BetrVG was relatively small. This is possibly based on the comparably modest number of affected persons, the existence of different unions and the fact, that the working conditions were quite favourable and the activity enjoyed high social recognition. For this group of persons § 117 par. 2 BetrVG opens up the possibility to institute a representation by collective agreement as well as to co-ordinate it with the decisions governing employee representations of the ground operation. Without the settlement of collective agreements, the election of a representatives is void. In opposition to § 3 par.1, § 117 par. 2 s. 1 BetrVG contains no guideline organising the actual representation. Therefore it is left to the discretion of the parties to a wage agreement whether they lean on the rules laid down in the Works Constitution Act. Collective agreements according to § 117 par. 2 do not need official approval. As a result of these special features, existing or respectively previous settlements of collective agreements concerning the personnel representation constitute an informal institutional prerequisite when it comes to negotiating collective agreements. This explains on the one hand the existence of company agreements, on the other hand the separate representation and treatment of specific occupational groups.

agreement fail as well, a representative of the newly created "agency for the improvement of in-company continuous qualification" (Agentur zur Förderung der betrieblichen Weiterbildung)² will be consulted. This representative also has the right to vote. After five or more years in a company, an employee has the right to leave the company for up to three years to get further qualification. Afterwards, he or she is entitled to claim a comparable or more qualified job. Employees with a full-time job can also work part-time instead of leaving the company.

IG Metall's new focus on training comes at a time when many companies consider a sound skills base and lifelong learning to be a major precondition for staying competitive. Although this subject is gaining importance, unions as well as works councils are, however, excluded when it comes to determining the rules for company-level training.

1.1.3 Evaluation of the agreements with respect to the employment impact

Evaluating the agreements with respect to the employment impact we have to take into consideration the macroeconomic fundamentals. The German economy is in an downturn (the German gross domestic product rose a real 1.6% in the first quarter of 2001 compared with the same period of 2000 - the smallest quarterly growth since the third quarter of 1999; German economic growth in the second quarter of this year is widely estimated to have slipped to zero or below, but concern is mounting that Germany will also experience negative growth in the third quarter, pushing the country into a technical recession).

Table 7: Key economic data for Germany.

² The parties to the collective agreement create a joint "agency for the improvement of in-company continuous qualification" (Agentur zur Förderung der betrieblichen Weiterbildung). This agency has the task to develop continuous qualification schemes, to improve information and transparency of training establishments, to promote and to develop models of continuous qualification and to advise companies and works councils.

	Unit	1997	1998	1999	2000 1)	2001 1)
Gross domestic product	% 2)	1,40	2,10	1,60	3,00	2,80
Total domestic demand 3)	% 2)	0,60	2,40	2,40	2,00	2,40
Investment in machinery and equipment	% 2)	3,70	9,20	6,70	9,00	7,90
Construction investment	% 2)	-1,50	-1,00	0,50	-2,40	-0,50
Other investment	% 2)	5,90	10,90	12,40	10,30	9,70
Consumption expenditure	% 2)	0,30	1,60	1,90	1,70	2,10
Private households 4)	% 2)	0,70	2,00	2,60	1,90	2,50
General Government	% 2)	-0,90	0,50	-0,10	1,30	0,80
Exports of goods and services	% 2)	11,30	7,00	5,10	12,90	8,90
Imports of goods and services	% 2)	8,40	8,60	8,10	9,90	8,20
Employment (domestic) 5)	thousand	-76,00	346,00	402,00	598,00	396,00
Unemployment rate 6)	%	11,40	11,10	10,50	9,60	9,10
Consumer prices 7)	%	1,90	1,00	0,60	2,00	2,00
General government balance 8)	%	-2,70	-2,10	-1,40	1,40	-1,60

1) Own estimate. - 2) In 1995 prices; percentage change against previous year. - 3) Consumption expenditures and gross capital formation. - 4) Including private non-profit institutions. - 5) Change against previous year. - 6) Definitions of the Federal La

Source: German Council of Economic Experts 2000.

On the one hand the collective bargaining trend in 2000/2001 seems to remain unchanged compared to 1999/2000. Differentiated and flexible collective agreements apply to the predominant part of employees. Additionally a large number of company agreements have been concluded.

On the other hand the collective agreements draw distinctions. In the accepted opinion of economic research institutes the 1999/2000 bargaining results undercut the gain in efficiency with their moderate results ranging from an 1,5 % to 2,5 % increase in real wages. In 2000/2001 we observe increases from 2,8% to 5% up to a maximum of 18%. Possibly the breakdown in negotiation on the "5,000 x 5,000" project (Volkswagen AG) is characteristic for the change in the tendency of agreements. The project's aim has been to create 5,000 new jobs for unemployed, with a monthly pay of DM 5,000. The main difference to older systems of work organisation is that a team of employees has to produce a fixed number of vans per day. If a specific number is produced in a week, work can be stopped. If the team does not fulfil the target, than they have to continue work (up to the legal maximum of 48 hours). This means (in short), that the working time depends on the organisation of the team. No extra payments are foreseen for overtime or Saturday work.

Furthermore there is not any longer a focus on agreements containing provisions to modernise the organisation of work, especially regarding more flexible pay and working time conditions. To summarize, the aftermath of the compromise paper on employment-oriented collective bargaining policy seems to attenuate. ?

1.2 Identification and analysis of tripartite social dialogue on employment

The main arena for the tripartite social dialogue is, as reported in the previous years, the „Alliance for Employment, Initial Training and Competitiveness“

(*Bündnis für Arbeit, Ausbildung und Wettbewerbsfähigkeit*). Within the alliance a great variety of employment related issues, ranging from working time flexibility over training, tax and social security reform to immigration, are discussed, all referring to various points of the 1999 European Guidelines and the German NAP. The *Bündnis für Arbeit* consists of several actors from the government, employer associations and unions. These are (INTERNET: www.buendnis.de):

- (i) top-ranking officials from the federal government: the German chancellor and the ministers (or deputy ministers) of labour, finances, economic affairs, education and health.
- (ii) the leading employers associations and business organisations: Confederation of German Industry (*BDI – Bundesverband der Deutschen Industrie*); Confederation of German Employers' Associations (*BDA – Bundesvereinigung Deutscher Arbeitgeberverbände*); German Confederation of Skilled Crafts (*ZDH – Zentralverband des Deutschen Handwerks*) and the German Association of Chambers of Commerce (*DIHT – Deutscher Industrie- und Handelstag*).
- (iii) important German trade unions: German Trade Union Federation (*DGB – Deutscher Gewerkschaftsbund*); Metall Industry Union (*IG Metall*); Union of Mining, Chemical and Energy Industries (*IG Bergbau, Chemie, Energie*) Public Services, Transport and Traffic Union (*ÖTV – Gewerkschaft Öffentliche Dienste, Transport und Verkehr*) and the German Salaried Employees' Union (*DAG – Deutsche Angestelltengewerkschaft*).

Although these are the same organisations and institutions as reported last year, there was some change with regard to the persons who are representing these organisations, due to cabinet reshuffles (health) and election of new organisation leaders (*DIHT, ÖTV, BDI*) (INTERNET: www.buendnis.de, www.faz.net.de). These minor changes are overshadowed by the creation of *Ver.di* already reported above. The *DAG* and the *ÖTV* are absorbed into the new union. It is not yet clear whether their seats in the Alliance for employment will be taken by *Ve.rdi*, another union will get one seat or one seat will be cancelled.

These actors of the *Bündnis für Arbeit* are the most important employees' and employers' organisations in Germany. They are in most cases peak or umbrella organisations to which more or less independent sectoral and/or regional members are affiliated. The *BDA*, for example, is the central body of Germany's over 50 sectoral employers' associations and is organised into 14 regional sections. The employers organised by the *BDA* employ – according to an estimation of the *BDA* – approx. 80% of the Western German workforce (SCHNABEL/WAGNER 1996; INTERNET: www.bda-online.de). It is not the *BDA* but its members that are negotiating the collective agreements. The unions affiliated to the *DGB* as the peak organisation of Germany's industry trade unions had around 8 million members at the end of 1999. This corresponds to a

density rate of approximately 25% (INTERNET: <http://www.dgb.de>). The *DAG*, which was not a member of the *DGB* until it merged with other unions into *Ver.di*, had around 0.5 million members amongst white-collar workers. The number of unions that are members of the *DGB* decreased due to the creation of *Ver.di* from eleven to eight.

The „Alliance for Employment“ is organised, as described in the previous report, in the following way: the dominant events, so called peak meetings or summits, are attended by the most senior officials of the participating organisations. These officials discuss and decide jointly on measures to reduce unemployment. In order to facilitate the talks, a permanent benchmarking group, composed of scientific advisers, was established. A so-called steering committee, the *Lenkungsausschuss*, serves as a tripartite co-ordination group within the alliance. This steering committee consists of second level officials who are preparing the discussions and decisions of the senior officials at the peak meetings. The following aspects of employment promoting actions are debated in eight workshops (*Arbeitsgemeinschaften*): i) initial vocational and further training, ii) tax policies, iii) reforms of the health care system, iv) reforms of the pension system v) working time policies vi) active labour market policy vii) new self-employment and viii) development of the east German economy (INTERNET: www.buendnis.de; FAZ 24.02.1999). These issues can be seen as the main topics of the tripartite dialogue in Germany.

After the peak meetings that happen at irregular intervals usually joint statements or declarations are issued, which are summarizing the results of the summit. While the workshops are running continuously on all the topics named above, the importance of the different issues is varying with the economic development, the political discourse and the progress of the different workshops. Hence, the discussions on the different summits had focussed on different topics in the past. During the current reference period two summits took place. The 6th peak meeting on 10th of July 2000 and the 7th peak meeting on the 4th of March 2001. Main topics of the tripartite dialogue within this timeframe were training issues, flexible working time, elderly employees and pension policies (INTERNET: www.buendnis.de). Before discussing the dialogue about these issues a short overview of the historical development of the *Bündnis für Arbeit* is given, in order to show its evolution. (This is partly taken from the previous report)

1.2.1 Historical Development of the Alliance until June 2000

The first attempt to establish a tripartite dialogue on employment creating measures initiated under the liberal-conservative government in 1995 following a proposal of the leader of the Metal Worker Union (*IG Metall*), Klaus Zwickel, failed after a short time (PAQUÉ 1996), because the unions withdrew after the government decided on cuts in the welfare system.

Establishing a new „Alliance for Employment“ was one major point of the oppositions election manifesto. After their electoral victory the coalition of the social democratic and the green party established *the Bündnis für Arbeit* in order to cope with permanently high unemployment. This tripartite process involved all relevant social partners and aimed at reforms in the areas of collective bargaining, labour market policies and social insurance (EIRR 10/1999). A first round of the talks in November 1998 was viewed by the participants as a good basis for further negotiations (EIRR 01/1999). But in the first half of 1999 the Alliance came under pressure, due to conflicts between employers' organisations and trade unions over early retirement funds and whether or not to integrate wage policies in the agenda of the Alliance. Employers' representatives argued that wage matters directly influenced employment creation and should therefore be discussed within the *Bündnis für Arbeit*. Unions opposed this because in their view that would have endangered the constitutional principle of collective bargaining autonomy (HANDELSBLATT 09.02.1999; 20.05.1999). This conflict jeopardised in the opinion of most commentators the success of the following summit (DER SPIEGEL 8/1999; EIRR 06/1999).

Despite these problems, an optimistic atmosphere was created through the 3rd peak meeting at the 6th of July 1999 (BÜNDNIS FÜR ARBEIT 06.07.1999). After concessions from both sides a joint declaration of BDA and DGB was issued that productivity improvements should be used predominantly to promote employment and opening clauses should provide more flexibility to the collective agreements. (HANDELSBLATT 08.07.1999; DGB/BDA 1999; EIRR 08/1999; EIRR 10/1999). There was some conflict about the interpretation of the declaration. Especially the traditionalist IG-Metall hold the minority view that the costs of working-time reductions could be financed partially by increases in productivity, which would not necessarily imply hourly wages rising at a lower rate than productivity (BISPINCK/SCHULTEN 1999).

After this relatively successful summit, the alliance came again under strain due a conflict over early retirement funds demanded by Mr. Zwickel, leader of the IG-Metall. The main point of conflict was whether employers should predominately finance these funds or other groups (FAZ 18.11.1999; EIRR 12/1999; HAUSSCHILD 1999; FAZ 03.01.2000). Additionally, the DIHT and the BDI demanded a return to a 40 hours working week, which was unacceptable for the unions (HANDELSBLATT 06.12.1999). The actors within the alliance were not able to reach agreement on these topics (FAZ 14.12.1999; EIRR 01/2000). Despite the confirmation of some common targets – apprenticeship places for every young person who wants one and pilot-projects to integrate unskilled and long-term unemployed people into the regular labour market's low wage groups via subsidising their social contributions – there was no consensus reached concerning the concrete contents of an employment-promoting collective bargaining approach (INTERNET: www.buendnis.de).

After this 4th summit conflicts over the bargaining strategy and the wage policies broke out within the union camp. The faction of the IG Metall saw the 4th peak meeting as a failure and demanded high wage increases while the faction around the IG BCE took a much more moderate stance on wages and early retirement. The IG Metall approach would have endangered the consensus of July 1999 (HANDELSBLATT 27.12.1999). The IG BCE's statement was welcomed by the BDA (HANDELSBLATT 24.12.1999). Despite these conflicting positions the 5th peak meeting took place on 9th of January 2000 and was declared by the German chancellor to be a „breakthrough“ (FAZ 10.01.2000). After concessions from all sides the actors of the *Bündnis für Arbeit* agreed on three main issues: i) promotion of part-time work and working-time accounts ii) the creation of an early retirement scheme called *Altersteilzeit*, i.e. part-time work for elderly employees and iii) wage bargaining will be employment-promoting and long term-oriented. All three points had to be subjects of further negotiations on the level of regional/sectoral bargaining partners (INTERNET: www.buendnis.de; EIRR 02/2000; HANDELSBLATT 10.01.2000). The immediate reactions to the joint declaration were rather mixed, and gave the impression that the chancellor's enthusiastic statement was somehow exaggerated (BARBIER 2000; HANDELSBLATT 11.01.2000; HANDELSBLATT 13.01.2000).

1.2.2 The 6th and the 7th peak meetings

The analysis of the summits of the current reference period will focus on the 7th peak meeting, because the 6th summit was already discussed in the previous report and there were only few concrete results. This was due to conflicts between the unions and the employer side, especially the BDI and the ZDH. Latter demanded further tax reductions while the DGB stated this was a purely political topic not to be discussed within the *Bündnis für Arbeit*. There was no agreement over tax policies and pension reform after the 6th peak meeting had ended on 10th of July 2000 (FAZ 12.07.2000, FTD 11.7.2000). Trade unions did not accept demands to further incorporate wage issues in the discussions of the Alliance (HANDELSBLATT 04.05.2000). They also declined the demand of DIHT and BDA to discuss the planned reform of the German co-determination law, which aims at increasing the competences of the employees' representatives at plant level, within the „Alliance for Employment.“ (EIRR 2/2001; HANDELSBLATT 09.05.2000). The most controversial issues, like the reforms of the tax system, of the pension system and of the co-determination law were at least officially not discussed at all (FAZ 11.07.2000). Hence, it can be said that the 6th peak meeting did not generate remarkable results. The talks were dominated by training issues and the question of working time flexibility. The government and social partners agreed to use half of the financial resources dedicated to the *Jugendsofortprogramm* in the eastern states. One central aim will be to promote labour mobility of young people in the new *Länder*. The actors agreed further to promote the use of working-time accounts, job rotation

and further training to improve Germany's competitive position (FAZ 11.07.2000).

The time before the 7th peak meeting was dominated by the discussion of the union demand for an "employment offensive". The two central points of this offensive were the reduction of overtime by at least one quarter and an increase in part-time employment (HANDELSBLATT 26/27.01.2001). The unions expect that both measures would increase the number of jobs by reducing the numbers of hours worked by the individual employees. The employer side, especially the BDA, opposed this redistribution of work because in the employers view the measure might reduce the ability to react flexible to market conditions. They stated that they would only accept this demand in exchange for increased labour market flexibility (SZ 03.03.2001 HANDELSBLATT 26./27.01.2001). The ongoing conflict between the Federal Government, the unions and the business organisations over the reform of the workplace relations' act put additional strain on the *Bündnis für Arbeit* talks. The unions demanded a substantial increase in works councils' codetermination rights while this was vigorously opposed by the employer side (FAZ 18.01.2001, 02.03.2001, SZ 22.02.2001, 26.02.2001).

The reactions to the 7th peak meeting of the *Bündnis für Arbeit* on the 4th of March 2001 were mixed. The German chancellor, Mr. Schröder, viewed it as a success, while the representatives of the business side and the unions were more sceptical. (SZ 05.03.2001, INTERNET: www.faz.net.de) These latter statements were due to the remaining differences over of the reduction of overtime and the reform of the workplace labour relations act. However, the social partners reached agreement over some other issues and documented it in their joined declaration (INTERNET: www.buendnis.de; SZ 05.03.2001, FAZ 05.03.2001a):

1. Training and qualification offensive: The movement towards an information and knowledge based society and the demographic change make it necessary to access the qualification potential of the whole population. In order to do so the regional training conferences, another set of tripartite bodies, should aim at an increase in initial vocational training. Additionally, further training should be increased, but the details were left to the collective bargaining parties. And finally, the actors of the Alliance plan to start an initiative aiming at an increase in the quality of training. In an annex to the joint declaration some measures are given on which the Alliance agreed (INTERNET: www.buendnis.de).
2. Employability of elderly employees: In a total reversal of the previous policy – in the joint declaration the words of a 'change of paradigm' are used – it was stated that elderly people should be reintegrated in the labour market or held in employment. This is partly a reaction to the EU critique of the low labour force participation rate of older employees in Germany and partly to the anticipated shortage of skilled employees due to the demographic change. The social partner agreed on several measures: increasing the awareness of the problem in the establishments, increased further training for older

employees financially supported by the *Bundesanstalt für Arbeit* (federal employment office) and the reduction of the age limit for grants for reintegration into the labour market from 55 to 50 (FAZ 05.03.2001b).

3. Increasing the job placements: This target should be reached by increased usage of job rotation, training measures, the modernisation of the placing service and greater transparency of the different assistance programs.

Additionally there was agreement on two minor points: The changes in the pension system should be connected to an increase in company pension schemes and the social partners should aim at accessing the employment potential of the so called 'new economy'. (INTERNET: www.bündnis.de) However, the statements regarding these two topics were perceived by the public opinion as vague (SZ 05.03.2001).

In the aftermath of the 7th summit most commentators followed the sceptical evaluation of the business organisations and unions of the joint declaration. It was especially criticised that there was no agreement over the central topics of the preceding debate. (SZ 05.03.2001, INTERNET: www.faz.net.de). The President of the DIHT, Mr. Ludwig-Georg Braun, stated that there was no fundamental agreement on the overtime issue, while the unions blamed the employer side for this (SZ 05.03.2001, FAZ 05.03.2001a) The leader of the Metals Worker Union, Mr. Zwickel, tried to put pressure on the employers to confirm with the union demand of reduced overtime by threatening them with increased wage demands in the next collective bargaining round (INTERNET: www.faz.net.de). The discussion over the workplace relation act followed similar lines. The business organisations are demanding changes of the government draft, while the unions are defending it (SZ 05.03.2001, FAZ 05.03.2001a).

Much attention got the reversal of the Alliance's policy towards elderly employees (HANDELSBLATT 13.03.2001, FAZ 05.03.2001b,c, SZ 06.03.2001a, SZ 05.03.2001). The so-called *Altersteilzeit* was one of the celebrated agreements of the 5th peak meeting in January 2000. This concept aims at creating vacancies for unemployed people by giving financial incentives to elderly employees for early or partial retirement. The *Altersteilzeit* is supported by state funds. The partial retirement for elderly employees was on one hand a success, because more than expected employees participated. On the other hand it is causing problems, because elderly skilled employees are leaving and often no appropriate replacements can be found. *Altersteilzeit* is increasing the shortage of skilled workers (HANDELSBLATT 13.03.2001). Because the shortage of skilled employees has become a severe problem, the Alliance for employment agreed on initiatives to (re-)integrate elderly employees in the production process during the 7th peak meeting (HANDELSBLATT 13.03.2001, SZ 06.03.2001a, SZ 05.03.2001, FAZ 05.03.2001b,c). This results in the irritating situation that within a little more than a year two opposite bundles of measures were agreed on.

After the 7th summit the Alliance came again under strain. During a trade fair on the 13. of March 2001 announced the German chancellor that he wants to integrate the actual collective bargaining round into the Alliance talks (HANDELSBLATT 14.03.2001). He declared he wanted to repeat the employment oriented an long term agreements of the year 2000, which were widely regarded as a success of the *Bündnis für Arbeit* (HANDELSBLATT 14.03.2001, FAZ 16.06.2001). This announcement was not well received by the unions; especially the IG Metall was annoyed. Mr. Zwickel, the leader of the IG Metall, threatened to withdraw from the Alliance, if the government insists on the inclusion of the collective bargaining into the *Bündnis für Arbeit* (FAZ 15.03.2001, HANDELSBLATT 15.03.2001, Zwickel 2001). Additionally, the dispute of the workplace relation act flared up periodically (FAZ 18.04.2001).

1.2.3 Regional and state level Alliances for employment

Within the *Bündnis für Arbeit* peak organisations are negotiating with peak organisations. These umbrella organisations have usually a matrix structure in which the affiliated members are organised along the dimensions industry and region. The member organisations have often a great independency and, hence, cannot be forced to implement the national agreements. This is true despite the fact that not only the Trade Union Federation but also single unions are represented within in the Alliance, because these unions have also rather independent regional subunits and not all unions are represented within the Alliance. Hence, the implementation of the agreements announced in the joint declarations depends on the regional bargaining parties and their interests (JACOBI/KELLER/MÜLLER-JENTSCH 1992, STEIN 1997).

This is illustrated by the frequent reference to the implementation through collective bargaining. One example for this type of problem is the qualification offensive of the 7th peak meeting and its declared aim of increased further training. The implementation and regulation of this issue was left to the local bipartite collective bargaining (INTERNET: www.buendnis.de). Shortly after the summit the local branches of the IG Metall and the corresponding employer association started in southwest Germany (*Baden-Württemberg*) negotiations on further training. (SZ 06.03.2001b). The collective agreement reported above was the result (SZ 20.06.2001a,b). This agreement was claimed by chancellor Schröder as a success of the national Alliance for Employment (INTERNET: www.buendnis.de). Although some grant piloting character to the agreement, it can become in the neighbouring state of Bavaria the reason for the break down of the state level Alliance. The local branch of IG Metall is threatening to withdraw form the Alliance, because the business organisations are refusing to negotiate a collective agreement about further training (SZ 22.06.2001). Hence, the national Alliance can only set a framework and initiate measures but if these will become a success depends to a large extent on the regional and sectoral bargaining units.

Not only the peak organisations of the employer association and the unions are facing such problems, but also the federal government. It has within the German constitutional framework only weak influence on the behaviour of the state governments (*Bundesländer*) and the municipalities (*Komunen*). The *Länder* or states and the municipalities have together both, a higher aggregated budget and more employees than the federal government (see table 8) and, hence, their potential impact on employment is larger. Due to the independence of the states and municipalities from the federal government they can only be asked and not forced to implement the measures of the *Bündnis für Arbeit*. For example, in the joint declaration of the 6th peak meeting from the 10th of July 2001 the federal government announces that it will increase the number of apprenticeship places in the federal institutions and is **appealing** to and not instructing the *Länder* and municipalities to do the same (FAZ 18.04.2001, INTERNET: www.buendnis.de).

Table 8: Budget and employees of the different state levels in 1999

	Federal Government	States	Municipalities	Sum
Employees ^a	510 200	2 313 700	1 537 300	4 361 200
Budget in million EURO ^b	261 840	243 617	141 880	647 337

^a BMAS (2000)

^b INTERNET: www.statistik-bund.de/basis/d/fist/fist03.htm

These examples and numbers illustrate how important it is that similar tripartite dialogues in the states and municipalities complement the national Alliance for employment. Given the different resources and legislative competencies differing policy areas should be addressed by the Alliances from the federal to the regional level (see table: 9) (NEUMANN 2000). Alliances on establishment level are additional chances to foster employment, although they are negotiated not in a tripartite setting but bipartite between management and works councils (SEIFERT 2000).

Table 9: Alliances for employment: State level, resources, competences and policy areas.*

Level	Policy area	Competences and resources
Federal level	Fiscal and tax policy, welfare reform, framework for collective agreements, labour market and working time policy, educational and training policy	§§§ €€€
State	Fiscal policy, working time and labour market policy, educational and training policy, collective bargaining,	§ €€
Region	Working time and labour market policy, social policy, educational and training policy	€
Establishment	Exchanging employment security for cost reduction and working time flexibility, participative corporate culture, work organisation and working time,	€

Source: Taken from NEUMANN 2000 and slightly modified. The numbers of § and € indicate the fiscal resources and legislative competences.

Several regional pacts for employment have been active in Germany since 1996, as already reported last year. They are covering regions ranging from less than 100 000 inhabitants to more than three million. These pacts in the Ruhr-area (North-Rhine-Westphalia), Güstrow (Mecklenburg-Westpommern), Hamburg, Bremen & Bremerhaven, Berlin-Neukölln, Peine (Lower-Saxony), Zeitz (Anhalt-Saxony), Chemnitz (Saxony) and Amberg-Sulzbach (Bavaria) are supported by the European Union and supervised by the ZENIT GmbH (GERLACH, ZIEGLER 2000, INTERNET: www.pakte.de).

Additionally, Alliances for employment exist in most of the German states. On the one hand these state level Alliances are supporting and complementing the national Alliance like the collective agreement about the qualification offensive in Baden-Württemberg did this year. On the other hand the tripartite social dialogue on state level is also concerned with state specific problems. Hence, there is a great variety of tackled problems between the different states, as shown in table 10 (NEUMANN 2000).

Table 10: The Alliances for employment on state level*

State	Alliance initiated in ...	Participants of the Alliances	Topics of the Alliances
Baden-Württemberg	2000	State Government, business organisations, municipalities, universities, employment office, without unions	Training and qualification, labour market policies
Bavaria	1996	State government, business organisations, unions	Technology offensive, employment promotion, training (for disadvantaged young persons)
Berlin	1996	State government, business organisations, unions	Hospital reform, training and qualification, investment increasing measures, employment offensive
Brandenburg	No Alliance, because the state government is favouring a decentralised approach on regional and local level		
Bremen	1999	State government, business organisations, unions	Qualification offensive, training (especially for long term unemployed), flexible working time, job rotation, initiatives for start ups
Hamburg	1998	State government, business organisations, unions, employment service	Youth unemployment, flexible working time, qualification, support of start ups and of companies in crisis
Hesse	The state Government is viewing the Alliance approach as not far reaching enough and works on a initiative 'Together for Hesse'		
Mecklenburg-Westpomerania	1998	State government, business organisations, unions	Apprenticeship places, youth unemployment, working time, start ups
Lower-Saxony	1998	State government, business organisations, unions	Youth unemployment, apprenticeship places, start ups, companies in crisis, overtime, low wage sector, employment of handicapped people, early retirement for civil servants
North-Rhine-Westphalia	1999	State government, business organisations, unions	Start up offensive ('Go'), internet based information and consulting services about assistance programs, construction industry, working time flexibility, low wage sector
Rhineland-Palatinate	In 1996 the state Government called for a dialogue over an 'Alliance for employment and training.		
Saarland	The statement is continuing the 'Joint initiative Saar' and the 'Alliance for employment'.		
Saxony	The state government refers to the 'Foundation Innovation and Employment Saxony'		
Saxony-Anhalt	1999	State government, business organisations, unions	Initial vocational training, labour market policy, business aid
Schleswig-Holstein	1999	State government, business organisations, unions, employment office	Program against youth unemployment, training and qualification, flexible working time, start up offensive, consulting over business aid
Thuringia	'Thuringian training initiative 2000' of the state government, business organisations, unions, employment office and the municipalities		

Source: Taken from Neumann 2000 and modified. Only a selection of the more important Alliance topics is given.

The differences between the states are not only caused by the different problems of the states but also by the differing history, traditions and opportunities. For example, the main measures of the Bavarian Alliance for employment are financed by the interest earned by money collected through privatisation of large stock holdings of the Bavarian state (INTERNET: www.bayern.de). The Bavarian state government initiated the Alliance for employment in 1996 in order to find appropriate projects, programs and initiatives to spend the interest income on. Without this substantial financial resources the Bavarian Alliance for

employment would not have been possible or it would have had a totally different shape (BERGER 2000). Similarly, the concrete shape of the Alliance in North-Rhine-Westphalia is due to the long-lasting tradition of cooperative industrial relations and tripartite initiatives of the state (NETTELSTROH, HÜLSMANN 2000).

1.2.4 Summary

The „Alliance for Employment, Initial Training and Competitiveness“ has been still the main arena for the tripartite social dialogue during the reference period. On the two peak meetings held during this time several topics were officially discussed: Training issues, working time flexibility, labour mobility, job rotation, qualification offensive, labour market reintegration of elderly people and improvements of the labour administration. The social partners came to agreement over many of these topics. However, there was disagreement on two major issues that dominated the tripartite dialogue in the public: Reduction in overtime working and the reform of the labour relations act. Due to their high potential for conflict they were sometimes excluded from the Alliance talks, at least officially.

The joint declarations of the peak meetings are very often vague and have to be specified and implemented on the state, regional or municipalities level. In some cases this happens, like the agreement over the qualification offensive, and in other cases not. Hence, the most remarkable results of the Alliance for employment are the employment and long term oriented collective agreements of the wage bargaining round of the year 2000. Consequently, the German Chancellor, Gerhard Schröder, is trying to repeat this in the current bargaining round. But if this will happen, is not yet clear as the sceptical comments of union leaders in the ongoing discussion show (SZ 30.06.2001).

1.3 Degree of autonomy among the players

1.3.1 Juridification and collective bargaining autonomy

Table 7: Juridification in Industrial Relations

Subject matter	Regulation
Freedom of association	<i>Grundgesetz Art. 9 III</i>
Industrial action – strikes – lockouts	<i>Bundesarbeitsgericht (BAG)</i> – decisions in 1955, 1971 – decisions in 1955, 1971, 1980
Collective bargaining (autonomy)	<i>Tarifvertragsgesetz (TVG)</i> 1949, 1969
Interest representation at establishment level – private sector – public sector	– <i>Betriebsverfassungsgesetz (BetrVG)</i> 1952, 1972 – <i>Personalvertretungsgesetze</i> 1955, 1974
Codetermination at company level	<i>Montanmitbestimmungsgesetze</i> 1951, 1956 <i>Mitbestimmungsgesetz</i> 1976
Internal structure of trade unions and employers' organizations	<i>Bürgerliches Gesetzbuch</i> (Civil Code)
Labour market policy	<i>Arbeitsförderungsgesetz</i> (Employment Promotion Act)

Source: MÜLLER-JENTSCH (1997: 304); own translation and alterations

The structure of industrial relations is strongly regulated by law. At individual, establishment and collective level a number of statute laws exist (see table 7 for a summary). These are complemented by an extensive case law. Consequently, juridification (*Verrechtlichung*) is regularly regarded as a main feature of the employment relationship in Germany (e.g. JACOBI/KELLER/MÜLLER-JENTSCH 1992: 219). The right to form and join collective industrial organizations is laid down in Article 9 III of the Constitution (*Grundgesetz*), forming the basis for the principle of collective bargaining autonomy (*Tarifautonomie*), i.e. the right of trade unions and employer (organizations) to regulate employment conditions

independently of state influence. On this foundation, the Collective Agreement Act (*TVG*) stipulates details of the bargaining process between the social partners. This, and the detailed case law on industrial action enables the social partners to effectively regulate employment matters largely without state intervention.

Even in dispute resolution, the state is only of subsidiary importance. State arbitration is not compulsory, and in practice most arbitration procedures are conducted according to a collective agreement between the social partners. Only if no such agreement exists, or if agreed arbitration has failed to resolve the conflict, can a state arbitrator be consulted. The extension procedure organized by the Ministry for Labour is considered a remarkable deviation from the collective bargaining principle: The Minister for Labour can declare certain collective agreements as binding for companies which were not originally covered by the agreement. (*Allgemeinverbindlichkeitserklärung*). Although comparatively small numbers of agreements are extended every year, the “legal weapon” may still be effective because of its threat potential.

1.3.2 Autonomy of the main players within the political and economic context

Due to the *Tarifautonomie*, collective bargaining is in Germany free from direct political influence or state involvement, except in the case where the state is the employer and negotiating partner (PAQUÉ 1993). Hence, the bargaining parties have in principal the autonomy to agree on employment creating measures. If the political actors want to influence the collective bargaining they can do this only indirectly, by setting the legal and economic framework or by persuading the unions and/or the employer associations in a certain way. But such an attempt to influence the bargaining party might be counterproductive, due to the fact that both, the employers' associations and the unions, defend their bargaining autonomy vigorously. For example, the German chancellor's suggestion to integrate aspects of the collective bargaining in the Alliance talks in order to put employment before wages was not only refused by the traditionalist IG Metall but also by the moderate IG BCE. The latter did so despite its principal agreement on the aim postulated by the chancellor. Its rejection of the proposal was due to the inherent attack on the *Tarifautonomie* (SZ 30.06.2001).

Some economists argue that a semi-centralised bargaining structure in Germany is particularly detrimental to employment creation. The Alliance for employment can be viewed as an instrument to centrally coordinate collective bargaining in order to overcome this problem. However the Alliance is only an inappropriate instrument for this, because, as described above, the concrete collective bargaining is performed by the local sections of the unions and employer associations, which are rather independent from their national umbrella organisations. Hence, a binding agreement cannot be negotiated on the national level. The main channels by which politicians and the Alliance for employment

can influence the outcome of the collective bargaining is by setting the legal framework, providing the appropriate tax and fiscal policies, setting the tune of the public debate and promotion of certain issues in the public awareness.

1.3.3 Coordination between the national and European employers and union organisations

At national and/or intersectoral level, three forms of Europeanisation of collective bargaining can be identified:

1. the conclusion of new tripartite "social pacts" at national level which create new constraints for collective bargaining in order to improve national competitiveness within the SEM and to contribute to the country's effort towards fulfilling the convergence criteria for EMU;
2. the conclusion of new bipartite intersectoral agreements which explicitly link certain bargaining outcomes to either developments in other EU countries or to the new macroeconomic framework conditions of EMU; and
3. unilateral initiatives by national social partner organisations aimed at cross-border coordination of collective bargaining.

At sectoral level, two main types of Europeanisation of collective bargaining can be identified. The first type refers to the widespread use of cross-country comparisons in sectoral bargaining in order to justify bargaining demands. The second type could be described as social partner initiatives for cross country coordination of collective bargaining. These initiatives are taken at either European or bi- or multilateral level. In the following section, the recently concluded agreements are considered.

In June 2000, construction workers' trade unions from Belgium, Germany and the Netherlands agreed on a joint declaration on measures to seek harmonisation of working conditions in the industry. They also signed an innovative cooperation agreement providing for mutual trade union assistance and support for construction workers posted to other countries. The European federation of Building and Woodworkers (EFBWW) – a European industry federation affiliated to the European Trade Union Confederation (ETUC) – has played a leading part in the sector's European social dialogue.

In August 2000, the German Food and restaurant Workers' Union (Gewerkschaft Nahrung Genuss Gaststätten, NGG), the Austrian (Gewerkschaft Agrar-Nahrung- Genuss, ANG) and Hotel, restaurant and personal Services Workers' Union (Gewerkschaft Hotel, Gastgewerbe, persönlicher Dienst, HGPD) signed a cooperation agreement, which includes mutual recognition of union membership. As a result of the agreement, employees from Austria who work in Germany will have access to the full services of the German trade union and vice versa.

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