

IMPACT OF PRIVATE EQUITY ON EMPLOYMENT AND CO-DETERMINATION: THE CASE OF GERMANY

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Cómo citar este artículo / Citation: Scheuplein, C. 2020. "Impact of Private Equity on Employment and Co-Determination: The Case of Germany". *Revista Internacional de Sociología* 78(4):e171. <https://doi.org/10.3989/ris.2020.78.4.m20.003>

EL IMPACTO DE LAS EMPRESAS DE CAPITAL DE RIESGO EN EL EMPLEO Y LA CO-DETERMINACIÓN: EL CASO DE ALEMANIA

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Received: 19/12/2019. **Accepted:** 02/09/2020.

Published online: 15/12/2020

ABSTRACT

Studies of the effects of private equity in the United States have shown that the short-term, return-oriented business model can put a strain on industrial relations between employers and employees. This is similarly assumed to be the case for the coordinated market economy in Germany.

Firstly, the article shows for the years 2013 to 2018 the volume of employees affected by private equity takeovers in Germany and the industries in which these employees work. Secondly, it examines whether equal co-determination, which German law requires of companies with more than 2,000 employees, is avoided or ignored by private equity companies to a greater extent than by other types of employers. Thirdly, the change in the activity of works councils whose companies have been taken over by a private equity firm is considered. Overall, it is becoming apparent that private equity companies are more restrictive at the company level than other types of employer and that it is becoming more difficult for works councils to adequately represent employees' interests.

KEYWORDS

Co-determination; Financialization; Industrial relations; Private equity; Work council.

RESUMEN

Los estudios sobre los efectos de las empresas de capital riesgo o sociedades de inversión en los Estados Unidos han demostrado que el modelo de negocio a corto plazo y orientado al retorno de la inversión puede ejercer presión sobre las relaciones laborales entre empleadores y empleados. De igual manera, se supone que este es el caso de la economía de mercado coordinada en Alemania.

En primer lugar, el artículo muestra para los años 2013 a 2018 el volumen de empleados afectados por adquisiciones de empresas de capital riesgo o sociedades de inversión en Alemania y las industrias en las que trabajan estos empleados. En segundo lugar, se examina hasta qué punto la co-determinación igualitaria, que la ley alemana exige a las empresas con más de 2000 empleados, es ignorada o evitada en mayor o menor medida por parte de dichas empresas en comparación con otras. En tercer lugar, se analiza el cambio en la actividad de los comités de empresa de aquellos casos que han sido asumidos por una sociedad de inversión. En general, se evidencia que las sociedades de inversión son más restrictivas a nivel de empresa en comparación con otros modelos y que se está volviendo más difícil para los comités de empresa re-presentar adecuadamente los intereses de los empleados.

PALABRAS CLAVE

Co-determinación; Financiarización; Relaciones laborales; Empresa de capital riesgo; Comité de empresa.

1. INTRODUCTION

The business of private equity is designed to assert the interests of the owners against the other stakeholders of a company in a strict manner (Jensen 1993). Accordingly, studies on the effects of private equity in the United States have shown that the short-term, return-oriented business model can burden industrial relations between employers and employees (Appelbaum and Batt 2014; Clark 2009). This is also suspected to be the case for the coordinated market economies in Europe, where private equity was often established before the financial and economic crisis in 2008/09 and continues to flourish after an interruption (Watt 2008; Gospel, Pendleton and Vitols 2014). In Germany, as a coordinated market economy with an established system of co-determination, private equity established itself around 2000 (Jowett and Jowett 2011). However, to date few studies have been conducted on the effects of this particular type of financialization on the system of co-determination in Germany (Haves, Vitols and Wilke 2014; Scheuplein 2019a).

In Germany, co-determination is well-established both at plant level and at company level (Müller-Jentsch and Weitbrecht 2003: XX). Both levels build upon and complement each other. While the works councils are responsible for operations at individual locations, strategic decisions for the entire company are made by the supervisory boards. In Germany the activity of works councils is closely linked to that of employee representatives on supervisory boards; often the representatives are concurrently members of both bodies (Waddington and Conchon 2016: 83). Therefore, it makes sense to examine the influence of private equity simultaneously for both levels of co-determination.

However, the two levels of co-determination have very different numbers of boards. For example, in Germany the number of supervisory boards with employee representation on equal terms was most recently recorded as being around 630 to 640 (Ehrenstein 2017). Therefore, for this level of corporate co-determination a full survey of all companies that were in private equity ownership is conducted in this article. Here it was examined whether the legal form, legal domicile and number of employees were used by employers to exclude employees from participation. In contrast, there are about 28,000 established works councils. As their influence varies according to industry and company size (Ellguth and Kohaut 2019), this discussion only aims to provide an empirical overview for one industry. Members of the works councils in this industry were asked about their assessments of the influence of private equity on the company and on the daily activities of the works councils. The largest industrial sector in Germany, the automotive industry, where there is a high number of works councils in the companies, was

selected for the investigation. All in all 36 interviews were conducted with works councils from the automotive supply industry.

Overall, it is becoming apparent that private equity companies at the company level are more restrictive than other types of employers in terms of employee participation opportunities and that it is becoming more difficult for works councils to adequately represent employees' interests.

This mix of methods was chosen because of the different number of cases of the two levels of co-determination. It provides an initial overview of the simultaneous influence of financial investors on co-determination in Germany, and should also stimulate the need for further quantitative and qualitative research on this phenomenon.

The remainder of the paper is structured as follows. First, the business model of private equity is presented and a theoretical understanding of private equity as a form of financialization is developed (2.). Then the state of research on the impact on industrial relations is discussed (3.) and the extent to which takeovers affect employees in Germany is shown. A sample of private equity investments in Germany between 2013 and 2018 is analyzed (4.). Next, the extent to which companies with more than 2,000 employees demonstrate parity co-determination is examined (5.). Finally, a survey of works councils in the automotive supply industry is used to examine the change in works council work (6.). The article concludes with a summary and conclusions for further work (7.).

2. PRIVATE EQUITY AS A FORM OF FINANCIALIZATION

Over the past three decades, new types of players such as private equity, hedge funds and real estate funds have emerged on the international investment landscape, investing the capital they manage in mostly non-regulated capital markets (Gospel, Pendleton and Vitols 2014). The specific investment field for private equity companies is the market for corporate control, where they acquire companies with the goal of a profitable resale (Talmor and Vasvari 2011; Cumming 2012). The dominant financial criterion distinguishes the business model from strategic investors, who occasionally acquire companies but within industries or technology fields in which they operate permanently. In most cases, private equity companies acquire substantial ownership interests because they want to intervene in the strategic decisions of the company. This entrepreneurial approach also distinguishes private equity companies from hedge funds, which invest their capital in a much broader range of investment opportunities. In this paper, private equity is only understood to mean

the acquisition of companies already established in the market (“buyouts”). If, on the other hand, companies are financed before, during or in the few years following their foundation, this is referred to as venture capital. In these cases there is a considerably higher need for consulting, operational management and co-presence in the company, while buyout companies are more likely to be controlled by key financial figures, strategic decisions and the use of external consultants.

Finally, the temporary holding period is characteristic of the holding companies. In most cases, the private equity firms receive their capital through a fund paid into mainly by institutional investors. The deposited money is available to the investment companies for an agreed period of time – usually about ten years. This forces the acquired companies to be resold within the time period. The financial investors receive a fee for managing the funds, and they also participate in the profits once a profit threshold has been reached. The remaining profit flows back to the fund investors. In Anglo-Saxon countries, the legal form of a limited partnership is often chosen for the construction of funds, so that the private equity shareholders manage the business as general partners while the actual investors do not gain any insight into the business. Private equity funds are often located in offshore financial centers. These offer low tax rates and low transparency requirements, making it more difficult to track any profits to the players’ countries of origin.

When a company is taken over, the acquiring company (e.g. a fund) often uses liabilities as an additional source of finance. On the one hand, this increases the takeover volume of the PE-firm and usually also the profitability of the entire investment, so that the return on equity increases as long as it is higher than the interest paid on borrowed capital (“leverage effect”). On the other hand, in many cases the loan is passed on to the acquired company after the takeover, so that the latter is automatically put under economic pressure.

In addition to the transfer of loans, other purely financial measures such as the raising and selling of hidden assets (e.g. real estate), cost-cutting strategies, the closure of business areas with below-average returns and the division of the company into individual business areas with the aim of selling them has played a role in the private equity business. Such measures were, however, more characteristic of the corporate raider phase in the 1980s (Burrough and Helyar 1990). Since then, a much broader range of strategies has been established aimed at corporate growth, e.g. through internal reorganization, international expansion and innovation strategies (Hosskisson et al. 2013; Hammer et al. 2017; Söffge and Braun 2018; Bruinning 2019).

There are conflicting theoretical approaches to the economic and social effects of private equity. Both supporters and critics, however, agree that there are significant changes in value creation and the situation of employees. In this paper, private equity is treated as an element of the financialization of the economy. Within the range of different concepts of financialization (cf. Epstein 2005; Krippner 2011; Faust and Kädtler 2019), this article mainly takes up political-economic concepts (Palley 2014; Hein et al. 2015). Financialization is thus understood as a gain in importance of the financial actors vis-à-vis the real economic actors, whereby this shift is explained as a temporary, crisis-like solution to the contradictions of the economic process. Following Fine (2013, p. 55), the growth of “fictitious capital” in particular is seen here as a qualitative change. A developed economy is essentially dependent on a functioning currency and credit system, whereby the amount of credit granted always remains in relation to the real economy. Only when the loan is made tradable as a claim to future interest payments does a qualitative change occur. Different assets go through this process and the resulting claims to interest payments are made tradable. The credit-financed purchase and sale of companies (“leveraged buyouts”) developed by financial investors, i.e. the so-called private equity market, is one form of this financialization. The activities of private equity are of particular importance, since this asset class often has a strong impact on the situation of companies or employees and since it now has the largest capital volume of the alternative asset classes (Prequin 2019).

3. PRIVATE EQUITY AND INDUSTRIAL RELATIONS

Since the 1980s, the private equity business model has been the subject of controversy in public and in the academic literature. A redistribution of values from other stakeholders of a company – e.g. employees, customers and suppliers – to the new owners was assumed at an early date (Lowenstein 1985, Shleifer and Summers 1988). Following the renewed boom in private equity in many industrialized countries between 2004 and 2008 (Kaplan and Strömberg 2009), research into the consequences for employment, working conditions and wages increased (Wood and Wright 2009; Amess 2019). The effects on industrial relations were examined primarily in case studies (cf. overview by Wilke et al. 2009: 135-140). For the United States and the United Kingdom, the main burden on trade union representatives has been described (Appelbaum and Batt 2014; Clark 2009 and 2011; rather optimistic: Bacon 2010). A comparative European study series revealed a small influence on industrial relations in Germany (Wilke et al. 2009: 36, 49, 113; cf., 283; Gospel and Pendleton 2014: 32). It was found that employee representatives, for

example, were involved in restructuring negotiations and that the institutions of co-determination had a balancing effect (Haves, Vitols and Wilke 2014, 165, 172). Similar results were found in a case study by Lippert and Jürgens (2012) on the automotive supply industry. They observed a gradual change, erosion and undermining of the institutions of co-determination and concluded that co-determination was “strictly subordinated to shareholder value” (Lippert and Jürgens 2012: 238).

Some reports with a trade union background – which also refer to only a few case studies – recognize a clear dynamic of change (cf. Watt 2008). Here it is pointed out that private equity companies, as activist owners, restrict the management’s authority to act, but refuse to accept the role of employer. The term “absent employers” (Krieger 2009: 108; cf. Evans and Hubbard 2008:70) or “vanishing employer” (Watt 2008: 561) is used here.

Overall, the state of research on the influence of private equity on industrial relations shows a whole spectrum of behavior by financial investors towards employee representatives. On the whole, there is a lack of studies that have a quantitative data basis and a sample of comparable cases.

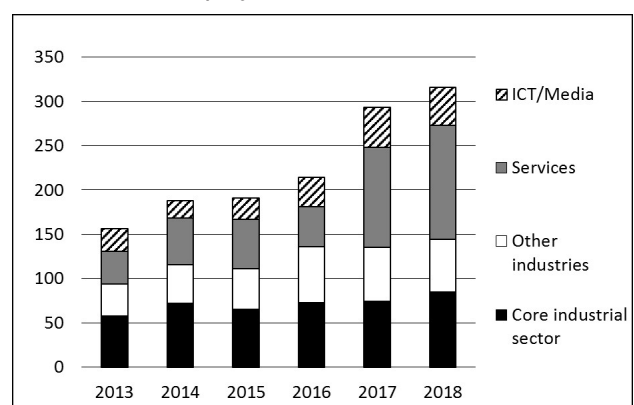
4. PRIVATE EQUITY INVESTMENTS IN GERMANY

Historically, the first PE-firms in the USA developed in the 1970s from investments on behalf of banks, insurance companies and private individuals. This was helped by the capital-market-oriented financial system, but also by capital-market-based pensions, which enabled pension funds to invest large sums in the new private equity asset class. In contrast, in Germany the business model did not prevail until the end of the 1990s (Jowett and Jowett 2011: 52-75), when the financial sector in Germany was oriented towards the liberal market model (Jackson and Sorge 2012). An important impulse came from the tax exemption for profits from the sale of corporations that came into force at the beginning of 2002. This motivated numerous corporations to divest less profitable parts of their businesses and brought the large US private equity firms to Germany. In addition, legal certainty was created for the taxation of profits from private equity funds. In the following years, numerous US and British PE-firm offices opened in Germany and until the global financial crisis in September 2008 the industry boomed (Bessler, Holler and Seim 2010: 527). After the downturn of the crisis, which also briefly affected the credit financing of takeovers, the buyout market in Germany recovered (Faust and Kädtler 2018; Scheuplein 2019b).

In 2013, there were at least 156 private equity takeovers of companies in Germany (Figure 1). This number continued to rise, especially in 2017 and 2018,

and more than doubled to 316 acquisitions by 2018. A total of 1,358 takeovers of companies by private equity were identified in this period. The number of employees also increased initially, from 72.6 thousand in 2013 to 103.9 thousand in 2016 (Figure 2). Since then, however, the number of employees has declined. In 2018, 81.5 thousand people were employed in the companies acquired in this year, bringing the total number of employees affected between 2013 and 2018 to 545,000. This opposite trend is mainly due to the situation on the market for corporate control in Germany. The available capital of private equity companies has grown steadily in recent years. At the same time, many financing options are also available to strategic companies in the low-interest phase. Private equity companies have therefore discovered new sectors in which to invest their capital in recent years. In 2013/2014, almost 38% of takeovers took place in the core industrial sector (including mechanical engineering, automotive, electrical engineering and chemicals). However, this share fell to around 26% in 2017/18. At the same time, the service sector, in particular, gained significantly in takeovers, reaching a share of 40% in 2018. The healthcare sector recorded the most gains, expanding its share of all takeovers from 5% to 27%. At the same time, their share of the workforce rose from 10% to 33%. The reason for this growth is the growing market for nursing homes, but also the new opportunities for private investors to acquire specialist practices (Scheuplein, Evans and Merkel 2019). In both areas, private equity companies have begun to build up large groups from many small nursing homes or doctor’s practices. This also explains why the number of takeovers has risen sharply while the number of employees has fallen.

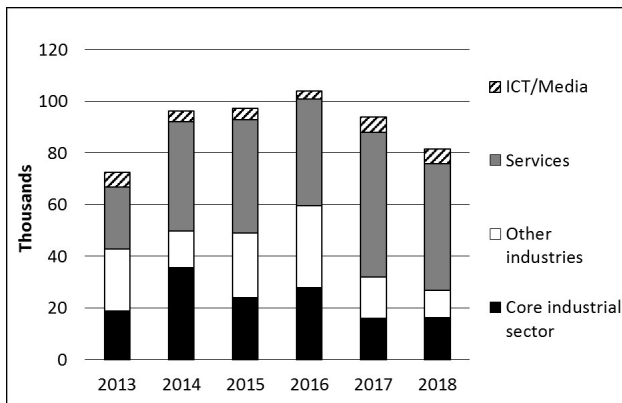
Figure 1.
Number of companies in Germany bought by private equity firms, 2013-2018



Source: author’s calculations, based on Preqin, Zephyr, Bureau van Dijk and Majunke Deal News.

If one considers the type of private equity actor in the context of co-determination, then the large number of active investment companies must be taken into account. Although a group of around 50 companies can be identified that regularly carry out takeovers on

Figure 2.
Employees in companies in Germany bought by private equity firms, 2013-2018



Source: author's calculations, based on Preqin, Zephyr, Bureau van Dijk and Majunke Deal News.

the German market, many companies are only occasionally active on the market. In 2017, around 180 financial investors participated in the approximately 290 takeovers in Germany (Scheuplein 2019b: 14). At the same time, the majority of takeovers in recent years have been made by foreign investors, especially in terms of the volume of employment. Companies from the capital-market-oriented economies of the USA and Great Britain were dominant; however, financial investors from many coordinated economies such as France, the Netherlands and Sweden are also involved (ibid. 15). If, however, the financial investors are active in many national markets with only sporadic takeovers, then it is to be expected that they will only be able to engage to a limited extent in the institutional framework of a system of industrial relations.

5. CHANGES IN CORPORATE CO-DETERMINATION

Co-determination in Germany is based on two levels. Firstly, employees in companies are represented at supervisory board level (Sandrock and du Plessis 2017). Secondly, employees in companies with at least five employees can elect a works council, whereby works councils have a wide range of rights related to information and participation (Page 2018). This section deals with co-determination at company level.

Co-determination at company level is based primarily on the number of employees. Enterprises with domestic employment are subject to parity co-determination from a threshold of 2,000 employees, unless they are excluded due to their legal form. Companies with at least 500 employees must appoint their supervisory bodies on a tripartite basis. (There are also special provisions for the steel and mining sectors). The establishment of these statutory bodies has always been a contested terrain (Dukes 2005; Conchon, Gold and Kluge 2010). The number of companies subject to equal co-determination in Germany

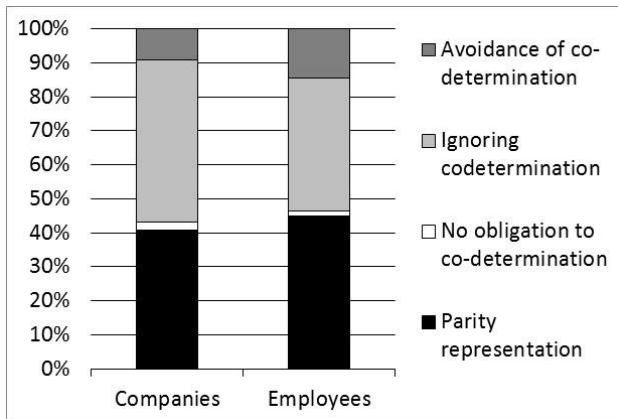
has declined continuously since 2002, although a contrary trend was observed in 2016 (Ehrenstein 2017). The downward trend was less attributable to an actual drop in domestic employment below the statutory limit of 2,000 employees than to strategies adopted by company management to circumvent co-determination requirements (Sick 2015, Bayer 2015, Bayer and Hoffmann 2015). It is questionable, however, whether the trend will be reinforced by the involvement of financial investors. Typical corporate strategies of private equity companies, such as the spin-off and sale of business activities or their relocation abroad, already suggest that the domestic employment volume will be reduced and the relevant minimum threshold of employees will thus apply.

For this reason, the number of companies owned by private equity with more than 2,000 employees is documented here. This involved checking all companies that were taken over by a private equity firm in the period from 2006 to 2018 to see whether they were still significantly owned by financial investors in the first quarter of 2019. Only the workforce employed in Germany was included, as only their number is decisive for the application of the Codetermination Act. In addition, the expertise of the Institute for Legal Fact Research at the Friedrich Schiller University of Jena was used to determine the status of co-determination for companies. A distinction was made between four categories (cf. Hoffmann 2016):

- (1) The company is equally co-determined within the meaning of the Co-Determination Act 1976.
- (2) The company is exempt from the provisions of the Co-Determination Act 1976, e.g. because it is a *Tendenzunternehmen* (tendentious enterprise).
- (3) Co-determination is avoided or (e.g. by using the legal form KGaA) only applied in a weakened form (avoidance of co-determination). (This form of avoidance can only be used if the change of legal form is made before the employment threshold is reached. If co-determination has already been introduced, it is also protected if the legal form is changed.)
- (4) The statutory provisions of co-determination are not applied by management despite an abstract obligation to co-determine (ignoring of co-determination).

It was possible to identify 44 companies owned by private equity that exceeded a domestic workforce of more than 2,000 employees (Figure 3). The number of employees in Germany in these companies was around 193,000. Of these, one company was initially free of co-determination as a *Tendenzunternehmen*. Parity co-determination was practiced in 18 companies. By contrast, in 21 companies (56%) the legal requirement was apparently ignored and in 4 companies co-determination was avoided as a result of the legal structure, e.g. by involving a holding company in the form of a *Societas Europaea*.

Figure 3.
Companies with more than 2,000 employees owned by private equity and their employee volume according to the status of co-determination (in percent), Σ 44 companies, Q I 2019



Source: author's presentation based on DAFNE/Bureau van Dijk, Deal News/Majunke Consulting, Preqin, own research and information from Thomas Hoffmann

These figures can be compared with the comprehensive study by Bayer (2015) of all the cases of avoidance and ignoring of parity co-determination in Germany. He estimated the number of avoidance/ignoring cases at around 140 in 2015, with 635 companies having equal rights of co-determination (ibid. 19, 115). Depending on whether the private equity companies were excluded or not, this would have resulted in avoidance/ignoring in about 15-17% of the companies. On the other hand, avoidance/ignoring was identified in half of the private-equity-managed companies, so that this type of owner avoids co-determination to a much greater extent.

6. CHANGES IN THE ACTIVITIES OF THE WORKS COUNCIL

Works councils are a historically grown, institutionalized system of conflict resolution in Germany (Thelen 1991; Müller-Jentsch 1995; Müller-Jentsch and Weitbrecht 2003). A large proportion of works councils can exert influence on organizational decisions within the company beyond the rights they enjoy in accordance with legislation or collective agreements. Many works councils see themselves as conflict partners, and the management has clear contours as the addressee for the concerns of the employee representatives. This mutual recognition and knowledge formed the basis for trusting cooperation between the works council and management. Since the 1990s this system came under pressure. For example, the proportion of the German workforce represented by a works council at company level fell and membership of the trade unions declined (Behrens 2015). Nevertheless, the institutions of co-determination have remained largely stable and both works councils and employee representatives on supervisory boards are still able to shape the takeover of companies (Hassel 2014; Artus et al. 2016).

The automotive industry is the most important manufacturing industry in Germany and industrial relations are very strongly characterized by active workforces and the IG Metall trade union. In the automotive supply industry in particular, there were many takeovers by private equity companies between 2004 and 2008 (Scheuplein 2012). The author conducted a survey of works councils examining changes in the situation of employees and corporate governance in these companies (Scheuplein 2019a). The changes in the activities of works councils, which are described below, were also discussed.

The study was based on a sample of 121 companies in the automotive supply industry that were owned by private equity companies between 2012 and 2016. After subtracting the companies with only a minority shareholding through private equity, with a public holding company and companies that were known not to have a works council, the population consisted of 92 companies. The works councils of 36 of these companies were interviewed. Larger companies were preferred because they were more likely to have a works council. This is one of the reasons why the companies in the interview sample have a significantly higher number of employees (an average of 2,040 employees worldwide) than the average of all the companies taken over (995 employees) and also a higher turnover (237 million euros) than the average of the companies (132 million euros). The companies interviewed were located in all product segments of the automotive value chain, with most companies operating in the areas of powertrain 26%, interior (24%) and chassis (17%). Since many of the remaining companies have fewer than 100 employees and therefore probably no works council, the representativeness is probably even higher.

More than half of the 36 companies for which an interview was conducted were sold several times to a financial investor. Of these, six companies (17%) experienced a threefold acquisition by a private equity company and a further three companies (8%) experienced a four-fold acquisition. The average holding period by a financial investor in the period up to the interview was just under four years. Because some companies have been acquired several times by financial investors, the interviews contain statements concerning 69 takeovers. These acquisitions were made by 53 private equity firms.

The interviews with the works councils were conducted on site – usually in the works council office – and each lasted 45 to 85 minutes. The questionnaire was semi-standardized, i.e. including both lists of queries presenting strategic orientations and measures, and open questions for presentation and evaluation. The interviews are quoted in anonymous form, with the Arabic number indicating the company number and – in the case of several takeovers – the Latin number referring to the number of the takeover, e.g. [BR6-II].

Overall, the interviews with the works councils revealed that the private equity companies implement extensive changes in the operational processes and corporate governance of the companies (Scheuplein 2019c). This also has clear consequences for the activities of the works council. In the following, this will be examined in terms of effects on basic material equipment, access to information, quality of negotiations and complexity of the activity.

The availability of resources for works council activities – e.g. rooms, office equipment, training costs – is legally guaranteed. Compliance with this requirement was described by the works councils as sound in the vast majority of private equity takeovers (77%). However, a relevant minority of seven takeovers (10%) saw problems, while another four takeovers (6%) found the works council's equipment completely inadequate. This critical assessment was reflected in the interviews in a number of very harsh judgments, such as the lack of cost absorption for works council seminars [BR1], harassment related to access to office equipment [BR26-II] and the use of office space [BR12].

Providing information to employee representatives is a prerequisite for their participation. In almost 51% of all takeovers, the works councils were of the opinion that they had been correctly informed by the management. This was offset by 28% of takeovers where works councils found the information policy "problematic" and typically stated that they should have fought for essential information for their work [BR8-I, BR14-I, BR16-I, BR20-I, BR22-I]. In 14% of takeovers, "insufficient" information was reported because, for example, information on important operational changes was not provided [BR16-III].

The quality of the compromise reached with management was judged very similarly (Table I). While this was regarded as "correct" in 34 takeovers (49%), there were 24 takeovers (35%) with "problematic" conflict management. For six takeovers, this was assessed as "insufficient" (9%). The reasons for this loss of partnership between employers and employees in co-determination have already been mentioned at several points: the limited time horizon of investors, the reduced decision-making authority of management and the refusal of financial investors to make contact. One works council describes this using the example of an interim manager who was willing to negotiate but was hindered by the private equity company and was therefore unable to comply with agreements made in this way [BR14-II].

A large number of unresolved conflicts were transformed into a legal form by the actors. Numerous works councils reported on legal disputes concerning collective bargaining and personnel law issues, in particular the validity of collective bargaining agreements, Christmas bonuses, the use of temporary work and the classification of individual employees [BR1; BR7-II; BR8; BR15; BR16-I, BR-17; BR20-I, BR30-I]. In or-

Table I.
Quality of the compromise reached with the management according to the works council

	All takeovers	
	Number	In percent
(1) excellent	2	3
(2) correct	34	49
(3) problematic	24	35
(4) inadequate	6	9
not specified	3	4
Total	69	100

Source: author's survey ; N= 44 works councils with statements on 69 takeovers.

der to obtain information about important operational changes, legal action had to be threatened [BR16-III]. Legal expertise was also increasingly used by works councils in out-of-court dealings.

The legal form of the dispute was to a large extent necessary "collateral damage", which the corporate governance implemented by the financial investors entailed. In some cases, however, the legal dispute was also used as a deliberate attrition tactic by the company management, as a works council suspected: "We no longer got around to day-to-day business. We were put under constant pressure so that there was no longer any normal work of the works council" [BR1]. In another company, a works council reported that the employee representatives were constantly preoccupied by new proposals to put them on the defensive. Among other things, the work specifications were changed, which had to be examined intensively in the committees and gave rise to legal disputes: "The company management were also happy to let this cost them something" [BR14-I]. A third works council summed up this practice as the loss of a social partnership culture of compromise: "One was always in a fighting position and had to fight for every employee" [BR6-I].

With three takeovers, the conflicts escalated to direct measures against the members of the works council [BR1; BR12; BR26-II]. In three other companies, the employee disputes with the financial investor led to the establishment of a works council [BR4; BR20-I, BR26-I].

Several works councils described this legalization of the conflict partnership as a cultural violation [BR17]. The works councils underwent a painful and time-consuming learning process [BR26-II]. While the financial investor saw and experienced the use of legal remedies as a legitimate means of confrontation, the works councils perceived these forms of conflict as new territory: "The investor side is easy with legal remedies. Accordingly, as a works council one must also be prepared to go to court or simply to generate legal costs. There is a lack of training here" [BR7-II].

This quote also refers to the increasing complexity of works council activities, which should be dealt with by internal competence building and the use of external expertise. For the first takeover, almost half of the works councils stated that the demands placed on the works council had increased (Table II). For another third, the requirements had even “risen sharply”. By contrast, the level of requirements remained constant for only two initial takeovers (6%) and fell for only three initial takeovers (8%). In the case of a second or repeated takeover, the majority still reported (strongly) increasing requirements in works council work.

Since works council activities have certainly become more complex in the past two decades due to numerous challenges, it should be noted that the assessments requested here explicitly referred to the financial investor type of owner. In addition to the increasingly legal focus, the works councils also identified the need for knowledge of internal accounting as a reason for the increase in demands made on works councils. Accordingly, a number of works councils stated that they organized “training in controlling” [BR5-II; cf. also BR6-I and II; BR7-II; BR13-I; BR14-I; BR17; BR18-I]. In individual cases, this expertise could also be used in operational reorganization, for example in the area of human resources projects [BR6-I; BR14-I], if management permitted this.

7. CONCLUSIONS

Research generally assesses the dynamics of change in industrial relations in Germany brought about by players in financial market capitalism as low. However, there is usually a lack of substantial analysis of the individual fields of activity of financial market players. This study focused exclusively on the activity of private equity and its impact on employment and industrial relations in Germany.

Firstly, it was shown that a considerable number of employees are already affected by private

equity takeovers. Thus, the number of employees in the companies taken over between 2013 and 2018 amounted to approximately 545,000 persons (whereby some multiple takeovers have to be taken into account). If the average holding period of five to six years is considered (Scheuplein 2019b), then in 2018 about 1.5% of all persons subject to social insurance contributions in Germany were employed in a private equity company. It should be borne in mind that the temporary control of private equity ownership means that new companies are constantly being created.

Secondly, the status of parity codetermination, which applies to companies with at least 2,000 domestic employees, was analyzed. This showed that less than half of the private-equity-managed companies have the co-determination that was actually expected, whereas this avoidance or ignoring of co-determination otherwise only seems to apply to one sixth of all affected companies in Germany. It should be noted that it was not possible to investigate whether this move away from co-determination began before, during or after the takeover by private equity companies. Bayer (2015) has pointed out that in most cases companies not subject to co-determination know how to avoid future obligations, but that there are very few cases of active “escaping” from co-determination in Germany. This probably also applies to private equity companies.

Thirdly, results on changes in works council work in companies in the automotive supply industry were presented. The findings from the interviews with the works councils of 36 automotive suppliers indicate that in two thirds of all takeovers the activities of the works councils are shaped by the actions of this new type of owner. Four-fifths of the works councils reported increased demands on the works council – although only a small minority of the works councils viewed the quality of the information for the works council and the quality of the compromise reached with management critically. Numerous works coun-

Table II.
Requirements for works council work according to the works council's statement

	First investor		Second investor		All takeovers*	
	Number	In percent	Number	In percent	Number	In percent
(1) strong increase	12	33	4	20	17	25
(2) increased	17	47	12	60	38	55
(3) decreased	3	8	0	0	4	6
(4) sharply decreased	0	0	0	0	0	0
(5) constant	2	6	3	15	7	10
not specified	2	6	1	5	3	4
Total	36	100	20	100	69	100

*This figure also includes acquisitions by a third and fourth investor. Source: author's survey.

cils have also reported that industrial relations have become more legalized, both in terms of legal threats and of actual legal disputes.

All in all, the ownership type private equity showed increased and harder conflicts for employee representatives. There are different types of financial investors, and learning processes with the system of industrial relations in Germany can also be observed. However, it is quite possible that with a further increase in the takeover activities of private equity

companies, the conflicts for employee representatives outlined here will increase.

FUNDING

The author disclosed receipt of the following financial support for the research, authorship, and/or publication of this article: The research on which this article is based was funded by the Hans-Boeckler-Foundation, Grant: S-2016-422-14.

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