

Chapter 11

From concession bargaining to broad workplace solidarity: the IG Metall response to agency work

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1. International competition and company-level concessions

Market integration at a global level has opened new opportunities for companies to expand into new markets and to shift their production abroad, leading to growing international competition (Buckley and Ghauri 2004; Rees and Edwards 2010). The resulting pressure on costs has affected the dynamics of collective bargaining, especially in export-oriented manufacturing companies in Europe and other highly developed countries where labour bargaining power has increasingly come under pressure (Tilly 1995; Raess 2006; Greer and Hauptmeier 2008).

Leeway for bargaining high salaries and good working conditions has inevitably declined as a result of employers' focus on cutting labour costs to improve company competitiveness in international markets (Sisson *et al.* 2003; Anner *et al.* 2006). Moreover the public discourse is putting further pressure on labour's attempts to resist the deterioration of workers' standards (Piotti 2009). Unions have been publicly accused of endangering the jobs that companies threatened to outsource if conditions for improving a plant's flexibility and cost competitiveness were not met. For instance, the German metal union IG Metall was portrayed as a 'job killer' when it initially rejected a management proposal to create 5,000 new jobs at lower wages and working conditions than those enjoyed by the existing workforce (Greer and Hauptmeier forthcoming). Similarly, the Italian metal union FIOM was accused of being too 'ideological' when it refused to sign agreements reducing breaks and increasing overtime without compensation for the whole workforce at the FIAT plants in Pomigliano and Mirafiori in 2010 (La Repubblica 2010).

As a result of this pressure to improve competitiveness, bargaining concessions have been spreading across Europe. Under the threat of closing

down plants or outsourcing production units, labour representatives have agreed to lower standards for wages and working conditions in order to save production sites (Hancké 2000; Pulignano 2006; Greer and Hauptmeier 2008; Greer and Hauptmeier forthcoming). Typically, the core workforce has taken pay cuts or accepted working time reductions or overtime without compensation as in the cases of Opel in Germany (Schulten 1998), PSA Peugeot-Citroën in France (Turlan 2012) and SEAT in Spain (Albarraçín 2005). However, concession bargaining has not only affected the working conditions of the core workforce, as labour representatives have also agreed to concessions at the expense of new hires or the peripheral workforce. Such concessions included the dual-tier wage systems for new hires at VW in Wolfsburg in the early 2000s (Dribbusch 2004) and at the US auto suppliers Delphi and Visteon (Slaughter 2003); the outsourcing of (generally lower-end) production units to subcontractors without collective agreements as in the German automotive, chemical and telecom industries (Doellgast and Greer 2007; Helfen 2011) and the employment of a cheap and flexible workforce in the German and Korean automotive industry (Jürgens and Krzywdzinski 2006; Yun 2011; Benassi 2013).

This chapter will focus on concessions on the use of peripheral workers, examining in detail labour strategies towards agency workers at company and sectoral level in the German metal sector. It has been argued that these concessions constitute an instrument protecting the standards of the core workforce against increasing competitive pressure. Through agreements at the expense of the peripheral workforce unions have, on the one hand, managed to maintain their bargaining power over the standards of their core members; on the other hand, they have also contributed to the dualization of labour markets (Lehndorff 2012; Hassel 2014; Eichhorst 2015). However, the findings presented in this chapter suggest that these concessions backfire on the core workforce in the long run because the increasing presence of a cheap and flexible workforce at company level threatens collectively agreed standards and the future existence of a permanent workforce. German unions have thus recently started resisting employers' segmentation strategies, often justified by reference to international competition pressure, and have instead adopted inclusive strategies towards the peripheral workforce. In particular, this chapter looks at the campaign IG Metall launched in 2008 to recruit agency workers and bargain on their behalf.

This chapter is structured as follows. The next section discusses the relevance of studying the German case from a research and policy perspective. The third section illustrates the spread of concession bargaining on agency work in Germany and its consequences for labour bargaining power. The fourth and fifth sections illustrate the response of IG Metall and the works councils to the growth of contingent work. The empirical evidence is mainly based on the analysis of union reports and documents and on fieldwork conducted in the German metal sector between 2011 and 2013, which included interviews with human resource managers and labour representatives. The last section summarizes the findings and draws conclusions for labour strategies.

2. The relevance of the German case

The German metal sector represents a particularly relevant case for studying the spread of concession bargaining at the expense of the peripheral workforce. First, works councils and unions in the sector benefit from an institutionalized bargaining position and from the most developed codetermination rights at workplace level in Europe. Nevertheless, German labour representatives were not fully able to counteract the spread of concessions despite such formally strong bargaining institutions (Bispinck and Dribbusch 2011). This phenomenon reveals the great pressure on industrial relations in Europe stemming from neoliberal policies and international competition.

Second, the IG Metall campaign for agency workers shows that traditional collective bargaining institutions need to be re-interpreted and revitalized in the face of new challenges and under the pressure of employers' casualization strategies (Greer 2008; Turner 2009; Benassi and Dorigatti 2014). The case of the German metal sector suggests that concession bargaining at the expense of the peripheral workforce erodes overall labour bargaining power in the long run despite the continuing existence of formal institutions.

Third, the growth of contingent work in the German metal sector and the resulting union reaction have shown that the competitiveness of the internationally acclaimed German export model has up to now depended on labour concessions increasing inequality within the workforce (Lehndorff 2012; Baccaro and Benassi 2014). These findings raise some scepticism about the recent proposals to export the 'new' German model

of industrial relations, especially decentralized bargaining, to Southern European countries in order to improve their economic performance (Anderton *et al.* 2012; Dustmann *et al.* 2014).

3. The German case: eroding labour power through company-level pacts for competitiveness

3.1 Seeking competitiveness in a fragmented industrial relations landscape

The German economy has always relied on its export-oriented manufacturing sector. Research in the eighties and early nineties showed that labour costs were partly protected from international market competition thanks to German companies being specialized in upper-end market segments (Sorge and Streeck 1987; Streeck 1991). Since the mid-nineties, however, employers have increasingly focused on reducing labour costs in the face of upcoming competitors – such as US and Japanese manufacturers – starting to produce for high quality markets at lower prices than German companies thanks to the adoption of new technologies and lean management strategies (Herrigel 1997; Jürgens 2004; Herrigel 2014).

In response to the cost pressure, German employers heavily restructured manufacturing production, especially with regard to integrating the value chain. Production was organized into modules which could be performed outside the core company by subcontractors (Jürgens 2004; Doellgast and Greer 2007; Greer 2008); or even outsourced to cheaper production sites, particularly in Eastern Europe (Kinkel and Lay 2003; Jürgens and Krzywdzinski 2006). Indeed, the Fraunhofer Institute reports that over 40 per cent of companies in core manufacturing sectors outsourced part of their production abroad between 1999 and 2001, mainly with the aim of reducing production costs (Kinkel and Lay 2003: 4).

These trends led to a public debate on the future of Germany as a production location (Standortdebatte), contributing to a consensus on the necessity to cut labour costs in order to re-gain competitiveness and helping legitimize the introduction of opening clauses at workplace level (Upchurch 2000: 76; Silvia 2010: 223). In this context works councils were made co-responsible for maintaining the investments in their plant and pushed to sign workplace agreements amending sectoral standards.

These so-called Pacts for Employment and Competitiveness (PECs) quickly spread across sectors and soon became an institutionalized instrument for co-management (Hassel and Rehder 2001; Rehder 2003). These workplace agreements mainly included concessions on wages, working time and other working conditions, and the use of temporary work and subcontractors (Jürgens and Krzywdzinski 2006; Haipeter 2011).

3.2 The consequences of concessions at the expense of the peripheral workforce¹

Since the mid-nineties use of contingent work and subcontractors has spread under the tacit consensus of works councils attempting to use temporary workers as a cheap flexibility buffer, while protecting the standards of the core workforce from competitive pressure. A survey conducted among works councillors for an IG Metall internal research project in Berlin-Brandenburg-Saxony reported that the vast majority of the interviewed works councillors saw agency workers as an instrument for protecting the standards of the core workforce (IG Metall study reported in Aust *et al.* 2007: 263). In a similar survey conducted among works councillors in the metal sector, 43% of the them agreed on using agency work as a flexibility buffer and only one out of three pursued equal pay and equal treatment as bargaining aims (Wassermann and Rudolph 2007: 15–24). As a result, provisions for agency workers in company-level agreements tended to shift costs from core to agency workers, boosting workforce segmentation in terms of working time (for example, overtime and unsocial working hours) and pay (for example, no access to company-level bonuses and benefits) (Zumbeck 2009: 15–40).

The attitude of works councils and unions towards agency workers started changing a few years after the implementation of the Hartz reforms which deregulated the use of agency work. These lifted most limitations on the use of agency work: companies could hire workers on agency contracts without specifying the reason for the fixed term and without offering any guarantee of a permanent job afterwards. Dismissal protection was lowered as agencies could employ workers on contracts lasting only

1. This section relies on the article published in the British Journal of Industrial Relations by Benassi and Dorigatti (2014).

until the end of their assignment at the hiring company. The equal pay principle, though existing in law, could be amended by collective agreement (Bundesagentur für Arbeit 2011). Due to unfair competition from the Christian union (whose collective agreements were declared unlawful by the labour court in 2013), the DGB special bargaining body for agency workers signed a collective agreement setting wages at a much lower level than in the metal sector.

In 2011 the German government changed existing legislation to comply with the Directive on Agency Work, approved by the European Parliament in 2008. The resulting legislation introduced a minimum wage for agency workers in order to limit potential wage dumping due to the inflow of migrant workers from Eastern Europe after the barriers to the German labour market fell in 2011. However, the amended law still allows exceptions to the equal pay principle through collective agreements. Furthermore, it does not regulate the transition from an agency contract to a permanent position, stating simply that agency workers should be employed only temporarily (*vorübergehend*). Unfortunately, this vague term can be loosely interpreted by employers (Frankfurter Rundschau 2013; IG Metall 2011).

Against this deregulation background, employers' use of agency work increased dramatically – Baccaro and Benassi (2014) used IAB data to calculate that in 1996 agency workers constituted, on average, 2% of the workforce in 45% of companies in core manufacturing sectors. In 2008, however, over 90% of these companies employed an average of 8% of their workforce on agency contracts (p. 361), with peaks of even 20–30% in big manufacturing companies (Bellmann and Kuehl 2007; Holst *et al.* 2009; Benassi 2013).

Because of this change in employers' casualization strategies, IG Metall started perceiving agency work as an attempt of 'conscious creation of cheap workforce' (IG Metall 2007: 23 cit. in Benassi and Dorigatti 2014) with the potential to threaten the standards of the core workforce in the long run. The interviews conducted with union representatives and works councillors and the analysis of IG Metall reports (IG Metall 2007, 2009) suggest that the performance of core workers is often benchmarked against agency workers who tend to work harder and at a faster pace because they want to be hired permanently. At the same time, however, they are cheaper and therefore their presence allows employers to question the existing standards of the core workforce. Furthermore,

the increasing presence of agency workers limits labour mobilization strength: first because core workers are afraid of being substituted; and secondly because it is difficult to organize agency workers to go on strike. Finally, the intensive use of agency work reduces the overall impact of strikes as it can prevent production from stopping. This happened for instance in the Lower Saxony machine tool manufacturing plant of Atlas where the company used agency workers to maintain production during strikes. IG Metall managed to stop this practice in 2010 (IG Metall 2010).

4. Extending solidarity to regain bargaining power

Until the mid-2000s IG Metall unsuccessfully tried to organize workers within their staff agencies (Weinkopf and Vanselow 2008: 26), leaving the regulation of agency work to the bargaining abilities of company-level works councils and avoiding any direct intervention. This strategy, however, proved to be detrimental because works councils agreed to the use of a cheap peripheral workforce under pressure to cut labour costs (Benassi and Dorigatti 2014: 12).

The ‘Same Work, Same Wage’ campaign started in 2008 as a response to the dramatic growth of agency work following the Hartz reforms. Its goal was to unionize agency workers and to set homogenous and fair standards for them at sectoral level. To this aim, it included initiatives both at company and sectoral level, supported by a campaign targeting national media.

The media campaign was oriented both towards the members of the labour organization and the wider public. First, it made union representatives and works councils aware that regulating agency work was a priority for the union and had to be included in the bargaining goals of both works councils and union officials. Furthermore, an interviewed IG Metall official from Berlin-Brandenburg suggested that the public shaming of employers’ casualization strategies helped works councils to discuss more openly their ambiguous attitude towards the peripheral workforce, as they could denounce the heavy pressure on cutting labour costs they were exposed to.

Second, the campaign wanted to raise awareness in the public at large towards the working conditions of agency workers in order to increase

unions' leverage in the coming bargaining rounds and to lobby politicians to improve legal regulation. It presented agency work as a new employer instrument for exploiting workers, with potential negative consequences for German society in general in the long run. The campaign included a truck that toured different German cities, postcards and e-cards which could be sent to members of local and national parliaments to lobby for better regulation of agency work, and several billboards highlighting the gap in wages and working conditions between agency workers and regular employees. Furthermore, IG Metall produced leaflets and brochures in which works councillors and the workers themselves reported on their direct experiences with agency work.

At company level, IG Metall tried to change how works councils understood and performed their workplace representation mandate. It provided specific training workshops for works councils to raise their awareness of the issue of agency work and provide them with information on the legal framework of agency work and their codetermination rights in this regard. Through the seminars and media campaign works councils were also encouraged to actively engage in the issue of agency work at company level. Furthermore, IG Metall started intervening in support of works councils in difficult bargaining rounds on agency work. These interventions were usually linked to the sectoral campaign in order to increase pressure on management. For example, the works council of the BMW plant in Munich requested the support of IG Metall during the company-level negotiations on equal pay because management was refusing to reach an agreement. The local IG Metall threatened to position a truck with a sign reading 'BMW-Temple of Slave Labour' in front of BMW Welt, the company's museum. Afraid of the potential damaging effect this initiative could have on BMW's reputation, management agreed to pay agency workers in accordance with the metal agreement (Benassi 2013). Similarly, IG Metall support helped the Siemens general works council to successfully re-establish equal pay for agency workers in 2012 after the company had announced its intention to withdraw its commitment, for example, by organizing protests outside Siemens plants in Frankfurt (IG Metall 2012a).

At sectoral level, IG Metall focused on recruiting agency workers. As part of the campaign it stressed the advantages of joining the union, including financial support in case of accidents and legal counselling, available also through a hotline set up specifically for agency workers. Above all, IG Metall included the issue of agency work in the metal bargaining

rounds. First, IG Metall advocated equal pay for agency workers so that companies in the metal sector would pay agency workers in accordance with the metal agreement rather than the agreement reached between the DGB bargaining body and the associations of staff agencies. Second, IG Metall pushed for limiting the contract duration of agency workers, who were to be guaranteed permanent hiring after a certain period of time. Third, IG Metall advocated the expansion of codetermination rights to cover the use of agency work.

5. The outcomes of the campaign

The outcomes of the campaign were positive. At company level works councils actively worked to achieve agreements gaining better working conditions for agency workers – by 2011, over 1,200 companies were covered (IG Metall 2012c). Moreover, the works councils interviewed during the fieldwork had all managed to achieve agreements improving the wage levels and working conditions of agency workers, even though there were differences in the extent and coverage across plants. The Ford plant in Cologne was the plant with the most wide-reaching agreement as it included quotas, equal pay and specific rules regarding transition from a temporary to a permanent contract. As argued elsewhere (see Benassi 2013), the Ford works council was able to achieve this result primarily because bargaining took place in early 2003, i.e. before the Hartz reforms deregulating the use of agency work came into force. The other plants, by contrast, only managed to regulate agency work several years after the Hartz reforms, also thanks to the IG Metall campaign.

The threat of outsourcing to Eastern Europe played a major role at the BMW plant in Leipzig, which had the highest rate of agency workers (around 30%). In this plant, the works councillor interviewed considered the concessions on the use of contingent workers and subcontractors inevitable as they constituted a pre-condition for setting up the plant in Germany rather than in cheaper production sites in Eastern Europe. Moreover, the BMW labour representative in Munich suggested that works council concessions on labour standards might affect relocation decisions; at the same time, however, he believed that these decisions were also ‘about politics’ rather than exclusively efficiency calculations. The works councillors at VW in Wolfsburg and at Ford in Cologne were even more confident that the use of agency work and the following re-regulation would not impact employers’ relocation plans. While the VW

works councillor believed that the Wolfsburg plant was not in any immediate danger of relocation at the time of the interview (maybe because of the political and strategic importance of the Wolfsburg headquarters), the Ford works councillor was sceptical about the council's ability to influence managerial decisions in this respect:

'Management has always said that the plant is in danger, that business units need to be outsourced...Whether they do it or don't, whether they outsource, is not something we need to think too much about. If a company has taken the strategic decision to set up plants in Eastern Europe or Asia, they'll do it. [...] This is why I've never been particularly impressed by this management rhetoric.' (Ford works councillor, 19.04.2012 cit. in Benassi 2013: 24)

In the plants in Cologne, Munich and Wolfsburg, the works councillors mainly highlighted the importance of concessions on internal flexibility (for example, the use of working time accounts in times of low demand) because the cooperation and technical skills of works councils constituted a source of comparative advantage for the company in comparison to other production sites abroad. At the same time, however, they suggested that employers were taking advantage of the lack of regulation of contingent work and of works council weakness in counteracting managerial decisions because they were more 'blackmailable' than the union which was able to represent workers' interests as an independent political actor. Therefore, they welcomed the initiative of IG Metall to re-establish sectoral regulation of agency work and standards of wages and working conditions.

At sectoral level, IG Metall achieved major recruiting gains, with over 50,000 agency workers joining the union by 2012 (IG Metall 2012c). It also achieved important contractual results: In the steel sector an industry-wide agreement on equal pay for agency workers was achieved in September 2010. In May 2012 the new collective agreement for the metal and electronics industry was signed. This strengthened co-determination rights in the hiring companies, as works councils were now able to bargain with management over the justification of hiring agency workers and their period of assignment. Moreover, it set rules ensuring that agency workers were hired permanently after a certain period of time: it is encouraged after 18 months of continuous assignment and becomes compulsory after 24 months. In the same year IG Metall negotiated an agreement with the employer associations of staff agencies setting

wage bonuses for agency workers, with the aim of reducing the wage gap between agency workers and permanent workers. 15% additional wages were to be paid after six weeks of continuous assignment, gradually increasing to 50% after nine months (IG Metall 2012b). Furthermore, IG Metall negotiated the new collective agreement in the agency sector together with the other sectoral DGB unions, which set a sectoral minimum wage of 8.50€/h and a 9.6% increase in wage levels in Western Germany and 12.8% in Eastern Germany (IG Metall 2013).

6. Conclusion: the need to focus on fairness and solidarity

In Germany concession bargaining spread as a consequence of increasing international competition and the weakening of sectoral bargaining structures. In this hostile context, works councils initially tried to protect, at least to a certain extent, the standards of the core workforce by allowing management to employ increasing shares of contingent workers. These workers are usually employed at lower wage rates and constitute a convenient flexibility buffer for the company because they can be easily dismissed. However, this bargaining strategy did not prove to be effective and sustainable in the long run in protecting the jobs of core workers from outsourcing or cost-cutting, especially in a context of labour market deregulation. Indeed, both works councils and unions reported that the increasing presence of a cheap workforce was slowly eroding collectively agreed standards and labour's bargaining power, contributing to a downward spiral which the concessions had originally aimed to avoid. For this reason, IG Metall started including agency workers in its bargaining scope and offering support to works councils in an attempt to avert employer pressure for concessions.

Even though these findings rely solely on the German metal sector, they provide important lessons for labour in other countries. Increasing pressure on workplace employment relations is a phenomenon affecting all European countries (Keune 2011; Marginson 2015). Similarly, labour market reforms have all focused on improving labour market flexibility in the last twenty years, meaning that contingent workers are increasingly employed across skill levels and occupations (Rhodes 1997; Gebel and Giesecke 2011; Marx 2011). To overcome these challenges, unions need to open their representation domain to new workforce groups, as a united labour front is of fundamental importance for reducing workforce

inequality. Besides the case of IG Metall, this is confirmed by recent empirical research comparing workers' outcomes in the telecom sector across different European countries, which found that labour can play a fundamental role in reducing workforce inequality under cost-cutting pressure when it manages to adopt encompassing bargaining strategies (Doellgast *et al.* 2015; Benassi *et al.* 2015). Furthermore, bargaining strategies focused solely on maintaining standards for the core workforce were found to be unsuccessful in the long run, leading to an overall decline in wages and working conditions (Doellgast *et al.* 2015).

The findings therefore suggest that concessions at the expense of the peripheral workforce represent only a short-term response to the challenges posed by the increasing pressure on workers' representation and collective bargaining. Though it has been argued that concessions on working time and wages might contribute, in the short run, to preventing plant relocations or closures – even though the evidence is mixed on the effectiveness of such concessions (Massa-Wirth and Seifert 2005; Chaison 2012) –, in the long run, however, they lead to deteriorating working conditions for the whole workforce (Pulignano 2014; Doellgast *et al.* 2015; Jürgens and Krzywdzinski 2008), and therefore do not represent a sustainable strategy.

The key strategy to prevent concession bargaining seems to be to reverse the process of bargaining decentralisation, which allows employers to negotiate wages and working conditions both for permanent and temporary workers at workplace level, where labour is weaker. First, the labour movement should try to shift labour-management conflict from the workplace level to the sectoral and national level, as witnessed by IG Metall which engaged in sectoral bargaining on behalf of agency workers in order to re-establish a common bargaining floor for works councils. The campaign also made strategic use of the media, exposing employers' casualization strategies to public discussion. By publicly shaming these practices, IG Metall put pressure on employers: the campaign helped re-frame the public discourse on flexibility, previously solely focused on the necessity of improving the competitiveness of *Standort Deutschland*.² The campaign refocused public attention on the issue of fairness at work and of employers' responsibility for negative societal outcomes such as

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increasing inequality. Both the union's bargaining efforts and its active intervention in the public discourse were of fundamental importance in taking the pressure off works councils to maintain plant competitiveness, allowing them to resist employers' segmentation strategies.

Second, international, and particularly European, workers' representation bodies should play a more active role in setting common international standards, in particular regarding the regulation of contingent work, as workplace concessions (on external flexibility) are closely linked to increasing international competition and transnational companies' strategies (Pulignano 2014, 2015). Of the automotive plants involved in the study, only Volkswagen's International Works Council and European Works Council managed to negotiate with corporate management the conclusion of the 'Charta of Agency Work'. Its provisions on wages, training and the transition to permanent contracts apply to agency workers in all VW Group plants worldwide (IndustriAll 2012). The agreement will hopefully pave the way for further cross-national regulation at company level or even at sectoral level, helping to prevent the spread of concessions at the expense of the peripheral workforce by removing labour costs from competition.

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