

# The ‘strategic discrimination’ of works councilors in Germany: new evidence of the demise of a model?

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## **Abstract**

In this work, I use the GSOEP database between 2001 and 2015 to analyse whether being a member of the firm’s works council (WC) affects ones’ hourly gross wage in Germany. The period is chosen on the grounds of data availability, but is well fitted because industrial relations in Germany have strongly evolved in this period. Thus, I assess in the first part of the paper how both internal and external erosions have been taking place in the country, thereby putting an increased strategic importance on the WC and, therefore, on their members. If studying the impact of WC membership on gross hourly wages is the core objective of this paper, I also spend time analyzing the impact of union membership. This is necessary because about two third of councilors are unionized and the effect of the two statuses should therefore be disentangled.

I show that works councilors and union members on average sustain an hourly gross wage penalty of about 2% when the economy is taken as a whole. I show that these memberships are associated with a much stronger effect in the non-manufacturing private sector where unionized works councilors – who account for two thirds of all WC members – get on average a penalty of about 6.6%. The fixed-effect models bring no evidence of an average causal impact of WC membership on wages in the economy taken as a whole. Rather than the absence of an impact, this result highlights the sectoral heterogeneity at stake. Thus, works council membership in the manufacturing sector brings a wage surplus of 3.4%, which increases to 7% when the workers’ rep is also unionized. Conversely, becoming a works councilor in the non-manufacturing private sectors involves a wage decrease of 2.5%, which goes down to 4.8% when unionized. Similarly in the public sector, unionized works councilors lose 4.2% in gross hourly wage.

The causal impacts of WC and union membership do not necessarily come from economic discrimination. Yet, I bring some elements of proof suggesting that at least some is taking place. Thus, the most educated and politically involved works councilors appear to be the ones sustaining the largest wage penalty in the non-manufacturing private sector.

# Introduction

The traditional German model of industrial relations relies on two mainstays: collective bargaining agreements at the branch-level between unions and employers' associations and plant-level codetermination involving managers and works councillors. The literature has been prolix on the causes and effects of these two pillars for firms and their average worker. But, within the firms covered, it is still unclear how the works councillors themselves fare. Yet, this is likely to play a revealing role on the 'black-box' of firm bargaining. It is especially relevant in a context where an increasing number of firms with a works council opt-out from collective bargaining at the branch level therefore strengthening the importance of firm-level decisions. The influence of works council membership on careers (either negative or positive) could indeed be used by employers as a strategic tool to ensure peaceful relations at the firm level.

In this paper, I use data from the German Socio-Economic Panel to assess the impact of works council membership on wages in the country between 2001 and 2015. After controlling for union membership, I find that, in firms with a works council, the works councillors' premium varies according to the sector. It is positive in the manufacturing sector and negative in non-manufacturing private sectors and, to a lower extent, in the public sectors. Analyses are led with both OLS and fixed effect models. Using the information on education and political involvement that the GSOEP offers, I bring some elements of proofs suggesting first that part of the negative impact in the non-manufacturing private sectors stems from some economic discrimination. Second, these elements allow me to apply to the German case the concept of 'strategic discrimination' which Bourdieu and Breda (2016) first used in the French context.

The text is organized as follows. I first describe the institutional context. Second, I review the effect of works councils and union membership on firms' productivity and wages that the literature has evidenced. I then describe the data I use and analyze it subsequently with OLS regression, fixed-effect models. I finish by bringing some elements of proof on the strategic discrimination that may be playing.

## 1. The institutional context

Germany has long been considered as an economy where a widespread dual system of industrial relations relying on both branch-level and firm-level coordination ensured a peaceful coordination between employers and employees. I first describe the traditional structure of bargaining before highlighting how it recently evolved.

### 1.1 The two pillars of the traditional German model of industrial relations

Modern industrial relations in Germany are structured around two pillars which were (re)institutionalized with the 1949 Collective Bargaining Act and the 1952 Works Constitution Act. The first pillar consists in sectoral collective bargaining taking place every four years between trade

unions and business' associations. It typically includes questions of wages, working conditions, working time and job classifications. While the agreements reached by these bodies legally apply to unionized workers in the firms with a membership in the association who stroke the deal, they are generally extended to non-unionized colleagues within these companies. Conversely, they are rarely extended to the whole sector: in 2009, only 1.5% of all sectoral agreements had been so (Addison et al., 2017, p. 30). Importantly, unions are not entitled to call for a strike outside of these four-year rounds. Finally, note that collective agreements can also be struck at the firm-level between the regional-level union and a company, even though this possibility is barely used (it covers about 7% of all German employees according to Addison et al (2017, p. 15)).

The second pillar consists in firm-level bargaining between the employer and the works council. When referred to by the workers, employers are required by law to facilitate the constitution of a works council and to bear its costs – including works councillors' wage – in private firms with at least five permanent employees. There also are works councils in the public sector ("Personalrat") but with "somewhat fewer powers (Müller-Jentsch, 1995). Professional elections take place every four years. Legally, works councils can only strike deals on issues that are not discussed at the sectoral level. This can include pay systems, working time, holidays and social issues, but in the end, they have little rights over distributional issues (wages<sup>1</sup>, ...). Thus, according to Müller-Jentsch (ibid : 60), "the potential for works council intervention in managerial decision making decreases with the proximity to essential business decisions" <sup>2</sup>. Confined to the less conflictual issues of personnel and social matters rather than to financial and economic questions<sup>3</sup>, they have the role of smoothing relations between labour and employers at the plant-level. Thus, the Works Council Act states they should cooperate with management "in a spirit of mutual trust [...] for the good of the employees and of the establishment". Nevertheless, their powers should not be underestimated. They do benefit from extensive information on the firm's strategic orientations, they are very well represented in the supervisory board<sup>4</sup> and, for instance, have a veto right on some individual staff movements as well as co-determination rights on overtime and plans of reduced working time. Even though they cannot call for a strike, these entitlements provide them with some power resources to use over disagreements with the management. Note that since 1989, the executive staff which could not be elected as works councillors until then is able to set up separate representative committees (ibid:61).

The two pillars are not fully independent for two reasons. First, when a collective agreement is reached, works councils are in charge of checking that it is applied in the signatory firm(s)<sup>5</sup>. Second,

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<sup>1</sup> "In the 'traditional' division of labor between sectoral- and establishment-level bargaining, works councils [are] to affect wages indirectly by either influencing the wage classification or negotiating wage premiums." (Ellguth et al, 2014:106)

<sup>2</sup> In the words of Addison et al (2017:3-4) "formally, [collective bargaining] [...] is commonly described as distributive in function (i.e. bargaining over the division of the joint surplus) [...] [while] it is conventional to describe [works council's] function as integrative (focusing on issues related to the size of the pie rather than its distribution)"

<sup>3</sup> See Müller-Jentsch (1995:59-60) for an extensive description of the works council's participation rights.

<sup>4</sup> Half of the seats in the coal and steel industry, half minus one seat in other firms with more than 2.000 employees, a third in those with 500 to 2000 employees.

<sup>5</sup> This was their actual primer responsibility when they were legally established in the Weimar Republic (Müller-Jentsch, 1995:53-54)

works councils depend on unions: the latter supplies the former with expertise and about two thirds of works councillors are DGB union members (slowly decreasing, but pretty stable).

## **1.2 A departure from this theoretical case**

The traditional German model such as described above has largely been praised by foreign observers. Yet, for several reasons, it is only a partial reflection of the industrial relations in the country.

### **1.2.1 A system under pressure**

For several reasons, the collective feature of German Industrial Relations has been under pressure since the 1970s. First, the process of financialization of the economy has emphasized shorter-term objectives per the shareholders' interests and thereby retrenched longer-run goals relying on stakeholder cooperation to secondary importance (on this, see (Goyer, 2007)). Second, the long-run trend of industrial and occupational restructuring has increased the interest for flexibility which is easier to reach at the level of the plant (Haipeter, 2011:176). Third, in the aftermath of the reunification, the difficulties endured by East-German firms limited companies' ability to engage under common collective agreements with the West. Since then, West-German firms have been enjoying increasing room for maneuver due to the credible threat of shifting production to the East (both Eastern Germany and Eastern Europe), at a time when rates of unionization were decreasing. Last, the privatization of former public services has provided more space for retrenchment of collective bargaining (Haipeter, 2011).

Accordingly, employers have increasingly got interest in bringing the core of industrial relations from the sectoral or regional level back to the shop floor and growing power resources to do so. As a result, both internal and external erosion of the traditional German model of industrial relations have materialized.

### **1.2.2 Internal discrepancies from the traditional model of IR.**

#### **1.2.2.1 Works councils deal with forbidden questions in firms taking part in sectoral agreements**

In a pure case such as described above<sup>6</sup> any workplace agreement between the employer and the works council to deviate from the collective agreement to the disadvantage of employees is null and void (Weiss and Schmidt, 2007). Yet, "it has long been recognized [...] that the contents of works agreements negotiated between establishments and their work councils have in practice ranged much beyond the terms fixed by the law" (Addison et al, 2017:4). Thus, according to Müller-Jentsch (1995:62), "during the 1960s and 1970s it was usual for works councils in large companies to negotiate informally with management about additional wage increases after conclusion of an industrywide wage agreement, although this practice was not authorized by the law". Thus, in his 1980 paper, Witte finds that in large manufacturing firms, 85% had signed works agreements with

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<sup>6</sup> I.e. in the absence of clauses at the collective level, see hereafter.

their WC on issues uncovered by legal rights to co-determination. This feature strengthened through the 1980s and 1990s. Normally in charge of verifying that collective agreements are applied in their establishment, works councils have largely engaged in 'wildcat cooperation' with employers against the credible threat of outsourcing.

This feature highlights the strategic importance of works councillors for the firm. 'Wildcat cooperation' takes place in a context of downward pressure on employment. It therefore consists in trading negative components for the workforce against an increase in job security. An instance of circumvolution of the legal issue for works councils and employers is to turn a blind eye on employers' non-respect of collective agreements or to bargain over "amendments to every single individual employment contracts" (ibid).

### **1.2.2.2 internal erosion**

To limit the recourse to these strategies and accommodate with firms' claims for flexibility rather than a 'one fits all' approach in a context of downward pressure on membership rates, employers' associations and unions have been constrained to engage with innovative institutional designs. It includes some 'job alliances'<sup>7</sup> allowing some derogations to the hierarchy of legislation which normally prevents plant agreements to be worse off than branch ones for employees. They are of several types.

First set up at the time of the reunification, 'hardship clauses' applied to the case of firms' economic distress in Eastern Germany. Generalized to the West under the name of "restructuring clauses", they entitle an employer and a works council to sign agreements on the condition that the collective organisations have ratified the clause. Note that these have a right to ask for detailed economic information to make sure that the deal is indeed necessary and helpful for the company's recovery.

'Opening clauses' consist as well in a branch-level agreement between unions and employers' associations to let local actors bargain over topics which do normally not lie in their reserved area, including the possibility to deviate from the existing collective agreement. Here, the clauses can be subject to an explicit goal of a competitiveness increase, a commitment to innovation or, more broadly, to investment. Depending on the collective agreement, the firm may have to justify its position against the collective actors or not. Yet when it is the case, the requirements are lighter than for hardship clauses (Silvia and Schroeder, 2007, p. 1452). According to Brändle (2013), while opt-out clauses on working time were more numerous in the 1990s, the ones on earnings are most frequent nowadays.

For an opening clause to be used in a firm, the management and the workforce or the works council have to come to an agreement on the issue. The 'job alliance' is therefore often reached against some explicit pledges from the employers' part to protect employment or to engage in investment programs. According to Seifert and Massa-Wirth (2005), 87% of all job alliances involved concessions from management in 2003. In this case, 'job alliances' are generally branded 'company-level pacts' or 'pacts for employment and competitiveness' (CLP hereafter). While it is generally the case, note that

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<sup>7</sup> Following Bellmann et al (2008, p. 534) I use the term 'job alliance' "for all types of company-specific deviations from a collective contract"

CLP do not necessitate the existence of a works council in the firm since the workforce can be directly consulted.

A third innovative institutional design is the development of the OT (Ohne Tarifbindung) membership. This new type of affiliation provides a firm the traditional services of an employers' association but does not compel it to apply the collective agreements. Note that the capacity for an employer to have recourse to this form of affiliation relies on the lack of power resource of the sectoral union to oppose it. As such, it is mostly taken up by small and medium-sized firms (Haipeter, 2011:182).

The trend is one of a strong development of these designs. Addison et al. (2017, p. 46) observes that CLP covered 15.0% of German employees in 2009 against 13.7% in 2006, that 52.7% of all employees covered by a collective agreement worked in firms entitled to use opening clauses in 2011 against 39.7% in 2005 and that respectively 77.0% and 52.9% of them worked in establishments which did use a clause.

These institutional innovations displace the core of industrial relations from the branch to the firm. As such, they strengthen the importance of works councils both positively and negatively. Positively first, because, in the aforementioned cases, works councillors cannot rely on the mandatory character of sectoral regulations anymore and therefore have to engage in bargaining over broader issues than in the traditional model. As a result, their claims have gained in strategic importance and the management may take actions to privilege more peaceful members against radical ones at election time. Negatively then because management's utility may be positively associated with the absence of a works council. Hardship clauses, opening clauses and CLP can be used in the absence of a works council by bargaining directly with the workforce. This is most frequently the case in terms of establishment numbers and, even though they still mostly address the conditions of employees working in plants with a works council<sup>8</sup>, the pattern has clearly been toward a decreasing trend (Addison et al., 2017, p. 46)<sup>9</sup>. It is known that works councillors are more unionized than the average worker (respectively about 60%<sup>10</sup> and less than 20%) and therefore may be more exigent in the concessions demanded from the management. As a result, employers may be tempted to avoid the creation of a works council when inexistent in the firm or to undermine its continuation when pre-existent in the establishment. OT affiliations are exemplary of this latter case. They prevent firm-members from benefitting from the smoothing feature of the traditional collective model. By not taking part in sectoral collective bargaining, the firm exposes itself to local strikes triggered by a union willing to enact collective firm-level agreements. As such, one would expect employers benefitting from OT membership to be harsher against unionized workers – whose leaders are often works councillors – than firms with the traditional membership.

### **1.2.3 External discrepancies : Incidence of works councils and coverage of collective bargaining**

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<sup>8</sup> The rationale behind this fact stems from the heterogeneity in establishment size

<sup>9</sup> Thus, counter intuitively, "there is little indication that the pronounced increase in the use of opening clauses has stimulated works councils since their relative incidence is little affected by activation or nonactivation. And, as far as pacts [CPL] are concerned, although works councils are even more dominant [...], their incidence has unambiguously declined both in employee and employer shares".

<sup>10</sup> Addison et al (2006 :7) ; same in my data.

The traditional dual system of industrial relations is not anymore the rule in Germany. To a certain extent this has never been the case. According to the Codetermination Commission (1998) cited in Addison et al (2004, pp. 401–402), in 1984, more than a third of all German employees were not working in a firm with a works council. In the private sector, the figure was of about a half and was even larger for small firms and in the service sector. To a lower extent, this also applied to sectoral collective bargaining since about 20% of all German employees were not covered in 1980. Despite these figures, the traditional model still occupied a central position until the mid-1980s because non-covered firms often used the standards set up in the collective agreements as points of reference (even though a mitigation by sector would be necessary. See Haipeter (2011:179) for the metalworking industry).

Concomitantly to the aforementioned internal erosion, a process of external erosion has also taken place. Accordingly, of all German employees working in firms with five or more employees in 2015, more than half was not represented by a works council and about 40% was not covered by collective bargaining. In the end, only 40% of this population was benefitting from both mainstays of the traditional German model of industrial relations (Oberfichtner and Schnabel, 2017, p. 22). Moreover, company and establishments agreements in non-covered firms decreasingly take as a baseline sectoral collective agreements (Haipeter, 2011:179) therefore strengthening the gap with covered firms. The departure from the traditional model seems therefore to be neat.

This process of external erosion has not affected all firms similarly. In 1996<sup>11</sup>, works council and collective bargaining agreements were already more frequent in the manufacturing sector, the public sector and in large firms overall. But the difference got stronger since then. As for collective bargaining coverage, the drop is negatively correlated with the establishment size and is stronger in services<sup>12</sup> than in the manufacturing sector while the public sector was not affected (in relation to the respective situations in 1996). The trend is the same regarding works council coverage. For our case, we should keep in mind that a lower incidence of works council and a stronger trend towards external erosion is likely to evidence a stronger opposition of employers against these institutions.

## 2. The impact of works councils on firms' productivity and wages

Traditionally, the economic analysis has much treated works councils as a rigidity per the union monopoly model (Oswald, 1985). In this view, works councils would alter the optimal frictionless equilibrium by constraining employers to negotiate and compromise, thereby leading to losses in efficiency and, *in fine*, in production and employment. Works councilors for instance have the ability to interfere on organizational issues and have a say on the hiring and firing, thereby limiting flexibility for the firm. Even more straight-forward for our case, as previously stated, works councilors have a *de facto* ability to *impact* wages, especially in the absence of CBA. In charge of representing the workforce at the firm level, a works council entitled with these capacities is likely to work for

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<sup>11</sup> The IAB Establishment panel was first introduced in 1993 but it included Eastern Germany only by 1996

<sup>12</sup> Note the spread among services: the banking and insurance sector is widely covered whereas industrial services are at the opposite of the spectrum. Note that none of these sectors exhibit a significant trend between 2001 and 2008.

redistributing the joint-surplus in favour of labour. Yet this description of a 'rent-seeking' (or 'rent-distributing') side of works councils should be complemented by the later statement of a possible 'rent-generating' effect.

A literature has indeed evidenced that the institution may allow dealing with "some market failures such as informational asymmetries, principal-agent problems and free-rider problems (Tüselmann et al, 2007)" (Ellguth et al., 2014, p. 97). According to Bajoit (1988), an unsatisfied worker can react in four different ways branded exit, apathy or neglect, loyalty and voice. The two first options are clearly under-optimal for an employer (assumed not willing to fire his employee). The two latter allows to keep satisfactory levels of cooperation. Yet, 'loyalty' may not be a long-lasting equilibrium if the employer is not fully aware of the source of non-satisfaction while 'voice' eases the employer's task of dealing with it. By easing the 'voice' response to job non-satisfaction, the presence of workers' representatives is therefore likely to reduce turnover, thereby decreasing hiring and training costs and increasing firm-specific investment from both sides.

The balance between the rent-seeking and the rent-generating effects of works councils is key to compute their overall impact on firm-performance and wages. The overall effect is therefore likely to vary according to the period, the sector, and the embedment in CBA. As for the latter, by delegating most decisions on wages and working time to industry-level bargaining, the traditional German model is likely to push the balance towards a stronger 'rent-generating' effect (Freeman and Lazear, 1994). Contrarily, the recent erosion of industry-level bargaining would rather weight towards the other side.

A large number of empirical studies have been led on the issue and their results are indeed ambiguous. As for the impact of WC on firm performance, Addison et al (2004b) exhibit a range of three groups of papers in their metadata analysis. The first one includes studies with representative databases of specific sectors in the early 1990s or before. The second one builds on representative surveys of the whole private sector in the 1990s. The third one is more recent and based on administrative data. They show that the estimation of the WC on firm performance varies according to the type of studies: respectively mostly negative, positive and ambiguous (though positive if anything). The explanation would go down to differences in sample size, in underlying populations and to the above-mentioned evolution of the industrial relations. In their words, "the jury is still out today" (ibid:236). Note that the third type of studies has expanded since then; the impact in the 2000s seems unambiguously positive (Addison, Wagner Xchank, Schnabel et al, 2006; Wagner, 2008; Jirjahn, 2012; Mueller, 2012; Brandle, 2017).

WC coverage is unambiguously associated with larger wages (about +20%, Addison et al, 2001; Ellguth et al, 2014). Yet the causal impact is less straight-forward. Addison et al (2001) and Kraft and Lang (2008) find no effect, while Addison et al (2010) and Brandle (2017) observe an impact of about 6 to 8%. Broadly, two methods are privileged in the literature : bivariate probits and difference-in-difference methods to evidence the effect of WC introduction. These methods are limited: it is known that bivariate probits are very unstable if the binormality of residuals is not respected – which is very rarely tested – and difference-in-difference methods do not take into account spatial correlation.

Treating the endogeneity risks of WC firms proves particularly difficult, especially since the selection in firms covered with CBA should also be addressed at the same time and that some interaction

effects between the two institutions may also be playing. A literature has developed on this latter point. In their seminal paper, Freeman and Lazear (1995) first stated that WCs were more likely to work with management to increase the joint-surplus when sharing rules have been decided upon by collective actors. “However, collective bargaining does not provide a surplus-sharing scheme for dividing firm surplus. It fixes a certain wage level and general working conditions” (Hübler and Jirjahn, 2003:474). According to them, the key element in industry-level bargaining is the possibility for the firm to refer to business associations’ experts when needed, and in particular in the case of lawsuits. As such, “the opportunities for a council to obtain employer concessions on wages by withholding cooperation in areas where it has codetermination rights are more restricted in covered establishments” (ibid). They indeed observe positive impacts of WCs on wages and productivity, but the former is stronger in uncovered firms while the second is stronger in covered firms. This result has largely been discussed then. Brandle (2017) obtains similar results on the productivity outcome<sup>13</sup>, Mueller (2011) corroborate the initial paper by observing that WC increase profits mainly in firms with CBA. But, as for wages, Gerlach and Meyer (2007) replicate Hübler and Jirjahn’s work with administrative data in the same region and find the opposite result. Gürtzen (2006) also finds a stronger impact of WC in covered firms while Addison et al (2010) and Brandle (2017) do not observe any significant difference based on the presence of a WC. In a later paper, Jirjahn explains these ambiguous results as follows : CBA “can have two moderating influences. First, as in Huebler and Jirjahn’s model, collective bargaining coverage limits the opportunities of a works council to engage in rent-seeking activities. Second, collective bargaining coverage increases the effectiveness of the work practices negotiated between works council and employer [and therefore the rent to be shared]” (Jirjahn, 2014:3). Both go towards an increase in productivity but they in opposite directions as for wages (respectively positive and negative). Jirjahn therefore considers that depending on the sample and on the years, results may differ.

As for the interaction between the existence or the use of opening clauses and the presence of a WC, the results are less ambiguous. According to Ellguth et al (2014), of all firms covered by an industry-level CBA, 39% of those with a WC are bound to opening clauses against 21% for those with no WC. In both cases, about half of them use these clauses. This figure reflects the fact that opening clauses are not solely ‘austerity measures’ – which WC would be expected to be willing to limit – but also some ‘stepping stones’ change in order to boost the firm competitiveness. As for the impact on wages, the existence of opening clause is associated with a rise in wages which is canceled by their use in firms with no WC but not in those with a WC (with a lesser degree of significance, Brandle (2017) finds this same latter result). Note that in Ellguth et al’s views (2014:105), “these results should not be interpreted as sheer rent-seeking actions because it may also be true that works councils offer alternative or even better and more sustainable solutions to economic problems than simple wage reductions”.

Applied to our work, the most important take-home points of this section is first that the impact of WCs on both rent-distribution and rent-generation depends on a number of factors sufficiently large to generate aggregate biases thereby limiting the stability of large-scale studies on the issue. Second,

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<sup>13</sup> His result only holds for industry-level collective agreements, not for CLP.

it seems reasonable to think that the spectrum of WCs impact is large. WCs' policies are therefore highly strategical both for labour and the management. One therefore expect rational managers to try to influence these policies and to pay special attention to whom is elected as a works councilor – and probably especially in a context of erosion of industry-level collective bargaining.

### 3. Data

In the German Socio-Economic Panel, respondents are asked whether they are a member of their firms' works council in 2001, 2003, 2006, 2007, 2011 and 2015. Information on WC coverage is available in 2001, 2006, 2011 and 2016. In the first three of these waves, I therefore drop observations from agents working in non-covered firms. To limit the full loss of the 2003 and 2015 waves, I assume that firms whose status did not change between two consecutive waves with coverage information experienced no variation on this matter in the meanwhile. Among the agents working in this subsample of firms, I therefore approximate the WC status in 2003 (resp. 2007, 2015) by the one applying in 2001 and 2006 (resp. 2006 and 2011, 2011 and 2016) if the person did not change firm between these years. The recoding procedure seems legit since works councils election normally take place once every four years. Next, information on union status is available for all these years but 2006. About two thirds of works councilors being unionized, the impact of the two variables should be disentangled. For the respondents who answered both in 2006 and 2007 and who did not change firm in between, I therefore assign to the 2006 wave the same union status as in 2007<sup>14</sup>. The other observations in 2006 are dropped.

This recoding biases the sample towards longer seniority. It should not be problematic for the results, especially given that works councilors tend to have longer seniority than average. The procedure is also likely to add some noise, especially given the 2006 recoding on union status. Indeed, it can be shown that the change in yearly status is of about 5% – though coding errors should be a concern here. In the end, I can infer the WC status for about 30% of the 2003, 2007 and 2015 samples. Among this population, about 75% work in a covered firm against 65% in other waves. The difference likely stems from the stronger stability of works councilors in their job. Note that the share of works councilor among covered firm per wave in the final sample (see hereafter) is of about 7.7% similarly in each wave (year-to-year ttests show no difference in the yearly share of WC members).

I further restrict the sample to full-time employees, working on an open-ended contract in a firm with more than 5 employees, and aged between 20 and 64. The agricultural sector as well as voluntary workers and militaries are dropped. The final sample therefore includes 14 180 person-time observations with an average of 2.08 observations per person.

As for the main variables of interest, WC membership, union membership as well as gross wages are self-declared. The gross hourly wage variable is based on the answers to the questions "How high was your income from employment last month?" and "how many hours [per week] do your actual working-hours consist of including possible over-time". It consists in the ratio between the first and

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<sup>14</sup> I restrict the recodification to respondents who did not switched firm on the rationale that union status is much associated with the job and therefore the firm.

the second answer – the latter multiplied by 4.3. The log of this variable is used. In each wave, I finally trim the bottom and top 1% of both the gross hourly wage and the number of self-declared hours worked.

#### 4. Descriptive statistics

Table 1 shows the incidence of WC and union memberships in the final sample. As previously mentioned, works councilors account for 7.70% of the sample and, among them, about two thirds is unionized. Overall, trade union members account for about a third of the sample. This rate is an average over the panel duration. Yearly rates do show a decreasing trend in the final sample, even though it is much weaker than in the firms with no WC.

Table 2 in annex 1 shows t-tests for mean differences according to the WC membership status. It shows an average difference of 203€ in gross monthly wage – significantly not null at the 1% level – which corresponds to 6.2% of the average wage of workers non-members of works councils. Note that bottom and top 1% of gross hourly wages as well as self-declared hours worked are trimmed. Were I to trim both at the 5% level, the difference would then go down to 3.8% and still be significantly different from 0 at the 1% level. No trimming leads to a difference of 7.5% (significantly different from 0).

**Table 1 : Incidence of WC membership and union membership in the final sample**

Member of the Employees Council	Member of a Trade Union		
	No	Yes	Total
No	9 303 65.60%	3 782 26.70%	13 085 92.30%
Yes	385 2.70%	710 5.00%	1 095 7.70%
Total	9 688 68.30%	4 492 31.70%	14 180 100%

Source : German Socio-Economic Panel, own calculations

In the final sample, workers who are not members of a works council declare working a bit less than half an hour more per week. This equals to about 1% of the 42 and a half hours they declare working per week (significantly different from 0 at the 5% level). This figure in no way brings proofs of over- or under- reporting in worked hours of each of the groups. A simple calculation shows that the difference in hourly gross wage is of about 4% of the control group's average one – significantly non null at the 5% level. More generally, works council members are on average older in age and seniority, less well educated and more often males than the control group. Note that they also work

relatively more often in smaller which is a mechanic consequence of the rule for the number of works council per firm (see Appendix 2).

## 5. Estimation

What follows is organized in three steps. I first lead regular OLS, then a fixed-effect model and finally bring some elements suggesting that a discrimination against works councilors may be at stake. In all cases but the fixed-effect models, standard-errors are clustered at the individual level in order to take into consideration that some systematic bias in the self-declaration of worked hours and received gross wage may be at stake.

### 5.1 A differentiated impact of work council and union memberships on hourly gross wages according to the sector

The estimations I lead are regressions of the log hourly wage on WC and union memberships as well as on a range of control variables. These latter include: the sex, the age, the age<sup>2</sup>, the log of the number of self-declared weekly hours actually worked, seniority, seniority<sup>2</sup>, the level of education, the SES and sectors at the 2-digit level, the firm size, the month of interview and dummies for the region of the individual (East, West) and for whether the individual is working under a contract specifying the number of hours he has to work per week. A time fixed effect is also included.

Table 4 displays the OLS regressions first in the whole economy and then according to the sector. Column (1) shows that in the whole economy, works councilors and union members respectively suffer an average wage penalty of 2.2% and 1.8%. I then lead the same regression on separated samples at the 1-digit sectoral level<sup>15</sup>. The penalty endured by works councilors in the public sector is close to the average. However, no difference can be evidenced for union members. As for private sectors, the point estimate associated with WC membership in the manufacturing sector is the only one appearing to be positive (non-significantly, see column (2)<sup>16</sup>). The regression led on the other private sectors pooled together therefore highlights a strong average penalty for works councilors of 4.4% (column (3)). Note that the number of observation in the manufacturing sector accounts for a bit more than a third of the observations. The positivity of the point estimate can therefore not be explained on the basis of a low number of observations. Point estimates for the effect of union membership shows that the whole-economy average penalty is driven by the private sector and, among them, especially by non-manufacturing ones.

Importantly, I fail to evidence any cross-interaction effect of membership in the two types of organizations (result available upon request).

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<sup>15</sup> The GSOEP distinguishes 9 private sectors at the 1-digit level: agriculture (dropped here), energy, mining, manufacturing, construction, trade, transport, bank and insurance, Services Public.

<sup>16</sup> Results for the other 1-digit sectors are not displayed here but available upon request

**Table 4 : OLS effects of WC and union memberships on the log hourly gross wage**

VARIABLES	(1) All sectors	(2) Manufacturing sector	(3) Non-manufacturing private sectors	(4) Public sector
Member of Employees Council	-0.0218** (0.0091)	0.0179 (0.0174)	-0.0441*** (0.0155)	-0.0232* (0.0124)
Member Trade Union	-0.0176*** (0.0063)	-0.0200 (0.0122)	-0.0222** (0.0103)	-0.0066 (0.0090)
Observations	14,180	3,215	5,578	5,387
R-squared	0.579	0.590	0.613	0.588
clustvar	pid	pid	pid	pid
N_clust	6802	1673	3178	2636

Standard errors in parentheses, clustered by individual.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Source : German Socio-Economic Panel, own calculations

The fixed-effect models displayed in table 5 tend to corroborate these results. Before turning to the causal impacts that it shows, it should be reminded that the average number of observations per respondent is 2.08. Among those who answered more than once, the average is 3.32. The coefficients in fixed-effect models are identified on the respondents who “switch status”. Given the low number of answers per respondent, the effect is therefore a short-term one.

Column (1) of table 5 fails at finding any impact of becoming a works councilor on wages on average in the whole economy. Yet, as suggested by the naïve OLS regressions, it appears that works council membership causes an increase of 3.4% in the manufacturing sector and of 2.5% in the non-manufacturing private sectors. These causal impacts are reinforced when works councilor also are members of a union. Thus, unionized works councilor obtain a reward of 7% in the manufacturing sector and a penalty of 4.8% in the other private sectors pooled together. Note that in both cases, non-unionized works councilor appear to see their hourly gross wage unaffected by their mandate of workers’ representatives and, if anything, would rather suffer (respectively benefit) from an impact going in the opposite direction from their unionized reps colleagues. Interestingly, both the causal impacts of works council and union memberships in the public sector are close to the ones in the non-manufacturing private sector.

Some explanations of these should be given here. Essentially, they probably come from a stronger incidence of both WC and collective bargaining coverage and a stronger tradition of codetermination in the manufacturing sector. [To be completed ...]

Importantly enough, there is a risk that the recoding I led on union status in 2006 in particular drives the results. Indeed, the process involves a stability bias on this matter which may artificially generate a downward (resp. upward) bias on the coefficient associated with WC membership if, first, workers

becoming works councilors enter a union at the same time and, second, if union status is associated with a penalty (resp. a gain) in wage. Yet, it can be shown that the results only evolve at the margin when the observations from 2006 are dropped.

**Table 5 : Fixed-effect regression models of WC and union memberships on the log hourly gross wage**

VARIABLES	(1) All sectors	(2) All sectors	(3) Manufacturing sector	(4) Manufacturing sector	(5) Non-manufacturing private sectors	(6) Non-manufacturing private sectors	(7) Public sector	(8) Public sector
Member of Employees Council	0.0049 (0.0075)	0.0119 (0.0113)	0.0341** (0.0169)	-0.0148 (0.0299)	-0.0247* (0.0140)	0.0016 (0.0199)	-0.0006 (0.0110)	0.0217 (0.0157)
Member Trade Union	-0.0189*** (0.0064)	-0.0178*** (0.0065)	-0.0019 (0.0136)	-0.0071 (0.0138)	-0.0268** (0.0125)	-0.0207 (0.0129)	-0.0104 (0.0098)	-0.0064 (0.0100)
Works Councilor * Union Member		-0.0119 (0.0143)		0.0699** (0.0352)		-0.0482* (0.0258)		-0.0425** (0.0213)
Observations	14,180	14,180	3,215	3,215	5,578	5,578	5,387	5,387
R-squared	0.940	0.940	0.943	0.943	0.956	0.956	0.940	0.940
clustvar	pid	pid	pid	pid	pid	pid	pid	pid
N_clust	6802	6802	1673	1673	3178	3178	2636	2636

Standard errors in parentheses.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Source : German Socio-Economic Panel, own calculations

## 5.2 Suggestive evidence of discrimination

There are several reasons which could explain the previous results. One is economic (positive or negative) discrimination, but many other causes could also be invoked. The increased job security could play a role by leading to a drop in efforts, the general positive view of works councils from the employers' part may also lead them to – rightly or not – think that works councilors are actually responsible for an increased productivity at the firm level and pay them accordingly. I bring here some elements of proof that are rather suggestive that some negative economic discrimination is taking place in the non-manufacturing private sectors.

First, the literature on discrimination has shown that most educated workers are more often affected. The rationale behind this fact is that wage scales are more flexible at higher SES levels and therefore leave more room for the employer to set the level of earnings. Table 6 shows that, each year of education brings an extra 4% in hourly gross wage. Note that this value is very consistent over sectors. Then, overall, the penalty for being a workers' rep is increasing with education and becomes positive with an education level larger than 1% (resp. 8%) of the population for works councilors (resp. union members). The effect for works councilors is fully driven from the non-manufacturing private sectors while the one for union members is more broadly observable (though significant only in the manufacturing sector). Note that these results are led with simple OLS due to the variability in education. If I break education levels into two groups – for instance at the 75 percentile of education level – results are essentially the same.

**Table 6 : Log hourly gross wage penalty of WC members and union members according to the education level**

VARIABLES	(1)	(2)	(3)	(5)
	All sectors	Non-manufacturing private sectors	Manufacturing sector	Public sector
Member of Employees Council	0.0095 (0.0205)	0.0264 (0.0334)	0.0272 (0.0369)	0.0071 (0.0322)
Amount Of Education Or Training (In years)	0.0418*** (0.0016)	0.0433*** (0.0025)	0.0389*** (0.0035)	0.0394*** (0.0023)
Works Councilor * Education (in years)	-0.0057* (0.0034)	-0.0138** (0.0065)	-0.0020 (0.0070)	-0.0051 (0.0044)
Member of Trade Union	0.0213 (0.0142)	0.0156 (0.0251)	0.0352 (0.0251)	0.0182 (0.0216)
Union Member * Education (in years)	-0.0069*** (0.0024)	-0.0071 (0.0049)	-0.0118** (0.0050)	-0.0038 (0.0032)
Observations	13,972	5,468	3,173	5,331
R-squared	0.588	0.624	0.597	0.600
clustvar	pid	pid	pid	pid
N_clust	6662	3087	1645	2601

Standard errors in parentheses, clustered by individual.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Source : German Socio-Economic Panel, own calculations

The last analysis suggests that the importance of the penalty in the non-manufacturing private sector is related to the level of political involvement of the works councilor. Thus, in the GSOEP, respondents are asked the following two questions: “Many people in Germany lean towards one party in the long term, even if they occasionally vote for another party. Do you lean towards a particular party?” and “ [if so,] to what extent?”. The possible answers to the second question are “very weak”, “fairly weak”, “moderate”, “fairly strong”, “very much”. I generate a dummy variable which values 0 if the respondent lean towards no party in the long run or do so very or fairly weakly. The value 1 accounts for at least moderate support. Table 7 shows that, in the non-manufacturing private sectors, politically involved and constant works councilors are more likely to suffer from a stronger penalty. For the most educated of them, the associated effect is of 12.6%. As for union members, political involvement is also associated with a stronger penalty but it does not seem to have a differentiated impact according to the education levels. If anything, a more heterogeneous effect can be evidenced at the top of the distribution.

**Table 7 : Log hourly gross wage penalty of WC members and union members according to their political convictions**

VARIABLES	(1)	(2)	(3)
	Non-manufacturing private sectors	Non-manufacturing private sectors Education <= 11.5 years	Non-manufacturing private sectors Education > 11.5 years
Member of Employees Council	-0.0243 (0.0197)	-0.0185 (0.0218)	0.0038 (0.0386)
Clear Support for a Political Party	0.0509*** (0.0103)	0.0601*** (0.0146)	0.0405*** (0.0138)
WC_M * Clear Support for a Political Party	-0.0425* (0.0257)	-0.0069 (0.0305)	-0.1257*** (0.0461)
Member of Trade Union	-0.0022 (0.0125)	0.0034 (0.0140)	-0.0160 (0.0265)
UM * Clear Support for a Political Party	-0.0468*** (0.0170)	-0.0516** (0.0220)	-0.0481 (0.0301)
Observations	5,490	2,895	2,595
R-squared	0.617	0.513	0.638
clustvar	pid	pid	pid
N_clust	3138	1698	1453

Standard errors in parentheses, clustered by individual.

\*\*\* p<0.01, \*\* p<0.05, \* p<0.1

Source : German Socio-Economic Panel, own calculations

Note that the dummy variable does not differentiate between parties respondents are leaning towards. In fact, no difference of impact on works councilors’ and union members’ hourly gross wage can be evidenced according to the party they support.

## Conclusion

In this work, I use the GSOEP database between 2001 and 2015 to analyse whether being a member of the firm's works council (WC) affects one's hourly gross wage in Germany. The period is chosen on the grounds of data availability, but is well fitted because industrial relations in Germany have strongly evolved in this period. Thus, I assess in the first part of the paper how both internal and external erosions have been taking place in the country, thereby putting an increased strategic importance on the WC and, therefore, on their members. If studying the impact of WC membership on gross hourly wages is the core objective of this paper, I also spend time analyzing the impact of union membership. This is necessary because about two thirds of councilors are unionized and the effect of the two statuses should therefore be disentangled.

I show that works councilors and union members on average sustain an hourly gross wage penalty of about 2% when the economy is taken as a whole. I show that these memberships are associated with a much stronger effect in the non-manufacturing private sector where unionized works councilors – who account for two thirds of all WC members – get on average a penalty of about 6.6%. The fixed-effect models bring no evidence of an average causal impact of WC membership on wages in the economy taken as a whole. Rather than the absence of an impact, this result highlights the sectoral heterogeneity at stake. Thus, works council membership in the manufacturing sector brings a wage surplus of 3.4%, which increases to 7% when the workers' rep is also unionized. Conversely, becoming a works councilor in the non-manufacturing private sectors involves a wage decrease of 2.5%, which goes down to 4.8% when unionized. Similarly in the public sector, unionized works councilors lose 4.2% in gross hourly wage.

The causal impacts of WC and union membership do not necessarily come from economic discrimination. Yet, I bring some elements of proof suggesting that at least some is taking place. Thus, the most educated and politically involved works councilors appear to be the ones sustaining the largest wage penalty in the non-manufacturing private sector.

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## Appendix

### Appendix 1

**Table 2: Ttests of equality based on the membership to WC**

	mean(non RP)	mean(RP)	mean_differences	pval_ttest
Ln (hourly gross wage)	2.81	2.78	0.03	0.00
Sex, m=1 fem=2	1.33	1.29	0.03	0.03
Age of Individual	44.40	45.35	-0.95	0.00
Ln (actual working hours)	3.75	3.74	0.01	0.02
No working hour agreement	1.93	0.94	0.99	0.00
Region, W=1 E=2	1.22	1.21	0.00	0.73
Seniority	15.63	16.80	-1.17	0.00
<u>Education</u>				
General Elementary	0.06	0.06	0.00	0.85
Middle vocational	0.47	0.53	-0.06	0.00
Vocational + Abitur	0.07	0.06	0.00	0.53
Higher Vocational	0.09	0.08	0.02	0.05
Higher Education	0.29	0.25	0.04	0.01
Inadequately or no Answer	0.01	0.02	-0.00	0.21
<u>Isco88 (1 digit)</u>				
Legislators, senior officials and managers	0.06	0.05	0.00	0.58
Professionals	0.22	0.22	0.00	0.86
Technicians and associate professionals	0.26	0.25	0.01	0.45
Clerks	0.12	0.13	-0.01	0.37
Service workers and shop and market sales workers	0.05	0.03	0.02	0.01
Craft and related workers	0.14	0.17	-0.03	0.00
Plant and machine operators and assemblers	0.10	0.09	0.01	0.13
Elementary occupations	0.04	0.05	-0.01	0.31
Unknown	0.02	0.02	0.00	0.91
<u>Sector (1 digit)</u>				
Energy	0.01	0.01	0.00	0.40
Mining	0.01	0.01	-0.00	0.08
Manufacturing	0.23	0.22	0.01	0.53
Construction	0.13	0.12	0.01	0.17
Trade	0.06	0.07	-0.02	0.02
Transport	0.03	0.03	-0.00	0.92
Bank, Insurance	0.04	0.04	0.00	0.52
Services	0.07	0.07	-0.00	0.87
Public sector	0.38	0.39	-0.02	0.30
Unknown	0.04	0.03	0.01	0.12
<u>Firm size</u>				
Ge 5 Lt 20	0.02	0.04	-0.02	0.00
Ge 20 Lt 100	0.12	0.18	-0.07	0.00
Ge 100 Lt 200	0.11	0.12	-0.01	0.19
Ge 200 Lt 2000	0.34	0.32	0.02	0.24
Ge 2000	0.40	0.32	0.08	0.00
Unknown	0.02	0.02	0.00	0.41

Source : German Socio-Economic Panel, own calculations

## Appendix 2

**Table 3 : Number of works councilors according to the firm size**

Number of employees	Number of works councilors
5–20	1
21–50	3
51–150	5
151–300	7
301–600	9
601–1000	11
1001–2000	15
2001–3000	19
3001–4000	23
4001–5000	27
5001–7000	29
7001–9000	31
3501–4000	25
4001–4500	27
4501–5000	29
5001–6000	31
6001–7000	33
7001–9000	35
>9000	+2 per bracket of supplementary 3000 workers

Source : 2001 Works Council Act