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# On the determinants of bargaining-free membership in German Employers' Associations

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## Abstract

In the 1990s, German employers' associations started offering bargaining-free membership. Firms can be members without the obligation to adhere to a collective agreement. This study examines the characteristics of firms choosing a bargaining-free membership. It shows the influence of works councils, union density, foreign ownership, firm size and firm age.

## 1 | INTRODUCTION

Employers' associations in many countries have undergone strategic changes in their activities and services to regain attractiveness (Demougin et al., 2019). This also holds true for Germany. In the 1990s, employers' associations started offering a bargaining-free membership status. Firms can be members of the association, but are freed from applying the terms and conditions of collective agreements negotiated with trade unions at the industry level. While the intention was to counteract the decline in membership and to regain firms' interest in industry-level agreements in the long run, there are now serious concerns that offering bargaining-free membership has contributed to undermining the traditional collective bargaining system in Germany (Behrens, 2017; Haipeter, 2016; Schroeder et al., 2018). However, little is known about the characteristics of member firms that choose a bargaining-free status and the characteristics of member firms that still adhere to industry-level agreements. Knowledge of these characteristics is important to understand the development of industrial relations in Germany.

This study provides both a theoretical and an empirical analysis of the determinants influencing the choice of a bargaining-free membership status. In the theoretical part, I discuss

the benefits and costs of a bargaining-free membership. The theoretical discussion emphasises that the benefits and costs depend on circumstances and type of firm. Using unique firm-level data, the empirical analysis compares member firms adhering and not adhering to an industry-level agreement to identify the determinants of a bargaining-free membership status. The analysis shows that the presence of a works council, the unionisation of the workforce, foreign ownership, firm size, and firm age play a role. Smaller firms, younger firms, firms with a foreign owner, firms without a works council, and firms with low intra-firm union density are more likely to be bargaining-free members of employers' associations.

This study is a first step to address an important research gap. Behrens and Helfen (2019) have examined the factors influencing the decision of employers' associations to offer a bargaining-free membership status. This gives rise to the question as to which firms use the option of a bargaining-free membership. Considering both members and nonmembers of employers' associations, Jirjahn (2022b) has tried to answer the question by simultaneously examining both the decision to join an employers' association and the decision to be freed from applying the terms and conditions of an industry-level agreement. However, most of the explanatory variables did not show a significant influence in his examination. This study pursues a different approach. It focuses on members of employers' associations to estimate the determinants of bargaining-free membership. The influences are much more precisely estimated. Thus, the study reveals a series of significant determinants of a bargaining-free membership status of firms.

Note that a series of studies have simply examined the factors influencing whether or not a firm is covered by an industry-level agreement (see Jirjahn, 2016; Schnabel, 2020 for a survey). As the underlying datasets do not provide information on membership in employers' associations, those studies mix two different situations of noncoverage. A firm may be not covered by an industry-level agreement because it is not a member of an employers' association or because it is a member with a bargaining-free membership status. This study uses a unique data set containing information not only on collective bargaining coverage, but also on membership in employers' associations. This allows an analysis focusing on a bargaining-free membership.

The rest of the paper is organised as follows. Section 2 describes the collective bargaining system in Germany. Section 3 provides a theoretical discussion on the firm's choice of a bargaining-free membership in an employers' association. Section 4 describes the data and variables. The estimates are presented in Section 5. Section 6 concludes.

## 2 | INSTITUTIONAL FRAMEWORK

In Germany, employers' associations and unions usually negotiate collective agreements on a broad regional and industrial level (Behrens, 2016; Jirjahn, 2016; Keller & Kirsch, 2015; Silvia, 2013). As the terms and conditions of collective agreements tend to be harmonised across regions in the same industry, centralisation of collective bargaining basically occurs at the industry level (OECD, 2017). There are also firms with firm-level agreements. However, the share of these firms is much smaller than the share of firms covered by an industry-level agreement (Ellguth & Kohaut, 2021). Collective agreements regulate wages and general aspects of employment contracts such as working hours. Firms covered by a collective agreement pay the negotiated wage rates to both union members and non-union members.

Membership in employers' associations and collective bargaining coverage are usually closely linked. Membership in an employers' association traditionally involves the obligation that the firm adheres to industry-level agreements negotiated between trade unions and the employers' association. As membership in an employers' association is voluntary, coverage by an industry-level agreement depends on the decision of a firm to join an association. Thus, there are two typical industrial relations regimes. The first regime is characterised by membership in an employers' association and coverage by an industry-level agreement. The second one is characterised by nonmembership and noncoverage.

However, there are also other less typical industrial relations regimes. In particular, the option of a bargaining-free membership status has contributed to a fragmentation of industrial relations in Germany during the last 30 years. In the 1990s employers' associations started offering a bargaining-free membership status (Behrens & Helfen, 2019; Silvia & Schroeder, 2007; Silvia, 2013; Weishaupt et al., 2021). Firms can be members of an employers' association, but are freed from applying the terms and conditions of the industry-level agreements the association negotiates with unions. Nonetheless, these firms still avail themselves of the association's legal, lobbying and personnel services.

Offering a bargaining-free membership status makes only sense in an environment where firms face a low risk of mandatory extensions by the government. Indeed, mandatory extensions of industry-level agreements by the Federal Ministry of Labour are relatively rare in Germany (Günther & Höpner, 2022; Paster et al., 2020). However, a membership freed from industry-level bargaining does not always guarantee that a firm can completely avoid collective bargaining. Unions may pressure the employer to negotiate over a firm-level agreement. An employer with a bargaining-free membership status is not eligible to receive strike insurance payments from the employers' association in such negotiations.

### **3 | THE EMPLOYER'S CHOICE OF A BARGAINING-FREE MEMBERSHIP**

Members of an employers' association enjoy a series of benefits (Jirjahn, 2022b). They may gain influence on public policy, have access to selective services of the association, and can participate in interfirm networks providing opportunities for information sharing and coordination. If the employers' association offers the option of a bargaining-free membership, each individual member faces the decision to enjoy those benefits with or without adhering to an industry-level agreement. The decision depends on the respective benefits and costs that are associated with the coverage or noncoverage by an industry-level agreement.

#### **3.1 | Benefits and costs**

From the employer's viewpoint, there may be a series of benefits of a bargaining-free membership status. Firms covered by a collective agreement pay higher wages than uncovered firms (Gürtzgen, 2016). Thus, an employer can save on labour costs by choosing a bargaining-free membership. Furthermore, coverage by an industry-level agreement may impose a series of restrictions on the individual firm's flexibility to pursue a personnel policy that accounts for its specific situation. Industry-level agreements specify standardised wages and working

conditions across firms.<sup>1</sup> One aspect is that collective agreements entail a compressed wage structure making it difficult to downward adjust the wages of less skilled workers, to pursue a coherent pay policy towards different occupational groups, and to provide differential penalties and rewards for poor or good worker performance (Franz & Pfeiffer, 2006; Gerlach & Stephan, 2006a, 2006b; Jirjahn & Kraft, 2007, 2010). Another important aspect are restrictions on working hours and working time arrangements (Hunt, 1999; Jirjahn, 2008). An employer can extent the scope for flexibility by choosing a bargaining-free membership.

However, a bargaining-free membership does not come without costs. Coverage by a collective agreement has a commitment value (Jirjahn, 2022b). A firm commits itself to pay the wages and to provide the working conditions specified in the collective agreement. This contributes to workers' trust in the firm's personnel policy and fosters their motivation. Moreover, coverage by a collective agreement has a signalling value. By paying the wages and implementing the working conditions specified in a collective agreement, a firm signals to applicants that it is a good employer. This helps attract skilled employees and fill vacancies. An employer choosing a bargaining-free membership foregoes the opportunity to use the collective agreement as a device for self-commitment and signalling. The employer has to find other ways to build trustful industrial relations and to attract applicants.

A bargaining-free membership can also entail an increase in distributional conflicts within the firm. Industry-level bargaining implies that basic distributional issues are moderated by employers' associations and unions outside the firm. This reduces conflicts at the firm level and makes it more likely that employer and employees build cooperative relationships (Freeman & Lazear, 1995; Jirjahn, 2017). If the firm is not covered by an industry-level agreement, the employer and the employees have to negotiate over wages and the various aspects of the labour contracts at the firm level. Such formal or informal negotiations entail a greater potential for conflicts and, hence, reduce the chance of cooperative industrial relations within the firm. Even the bargaining-free membership status may be a matter of informal or formal negotiations. Employees may put informal pressure on the employer to adhere to the industry-level agreement. Moreover, even if a firm is freed from applying the terms and conditions of an industry-level agreement, unions may nonetheless pressure the firm to negotiate a firm-level agreement. Negotiating a firm-level agreement entails additional transaction costs. In particular, if the firm has a bargaining-free membership status, it is not eligible to receive strike insurance payments from the employers' association.

Of course, many of the benefits and costs of a bargaining-free membership depend on circumstances and type of firm. Thus, the decision about a bargaining-free membership depends on the firm's specific characteristics. In what follows, I hypothesise that works councils, workers' unionisation, foreign ownership, firm size, and firm age are important factors influencing that decision.

### 3.2 | Works councils and workers' unionisation

Works councils are the second pillar of the dual system of worker representation in Germany. While unions typically represent workers' interest in collective bargaining at the industry level,

<sup>1</sup>Of course, opening clauses may provide some additional flexibility (Brändle & Heinbach, 2013). However, opening clauses do not necessarily imply that industry-level agreements provide sufficient flexibility from the firms' viewpoint.

works councils represent workers' interest at the firm level by participating in management's decision making (Jirjahn & Smith, 2018; Mohrenweiser, 2022). The creation of a works council depends on the initiative of the firm's workforce. Thus, works councils are not present in all eligible firms.

For two reasons, the presence of a works council should have a negative influence on a bargaining-free membership status of the employer. First, the employer him- or herself may have an increased interest in being covered by an industry-level agreement if a works council is present. The employer has to involve the works council in many decisions. Coverage by an industry-level agreement helps build cooperative relationships with the works council as basic distributional conflicts are moderated outside the firm by unions and employers' associations (Freeman & Lazear, 1995; Jirjahn, 2017).

Second, the works council may put informal pressure on the employer to participate in industry-level bargaining. Even though works councils and unions are formally independent, there are important linkages between the two institutions of worker representation. While unions provide legal expertise and training for works councils, works councils in turn often represent unions' interests within the firm. They may not only help unions recruit members (Behrens, 2009), but may also try to ensure that employers participate in collective bargaining.

In a similar vein, the share of the firm's workers who are union members should have a negative influence on a bargaining-free membership status of the firm. Union members receive support and advice from their unions. Hence, a highly unionised workforce can pursue more coordinated and effective actions to pressure the employer to participate in industry-level bargaining (Jirjahn, 2022a). A high union density of the workforce may also increase the risk of firm-level negotiations if the employer chooses a bargaining-free membership status. The employer can avoid this risk by adhering to an industry-level agreement.

### 3.3 | Foreign owners

A series of studies have shown that the national collective bargaining systems have an influence on the production location decisions of foreign multinational companies (MNCs) (Bognanno et al., 2005; Cooke, 1997, 2001; Cooke & Noble, 1998; Ham & Kleiner, 2007). Foreign MNCs tend to invest less in countries with centralised bargaining. Most salient to our topic, even when MNCs locate their subsidiaries in a host country with centralised bargaining, this does not necessarily imply that they adapt to the collective bargaining system of the country. Evidence from Germany suggests that foreign-owned firms are less likely to be covered by industry-level agreements than domestically owned ones (Jirjahn, 2022a). This supports the view that the activities of foreign MNCs challenge national bargaining systems also from within.

There are several reasons as to why foreign-owned subsidiaries tend to avoid participating in centralised bargaining (Jirjahn, 2022a). MNCs try to implement unified management practices in their subsidiaries and use coercive comparisons of their subsidiaries in different countries to extract concessions in employment and work practices from local workforces. It is easier for a subsidiary to adopt the unified management practices of the foreign parent company and to extract concessions from workers if it is not bound to the restrictions imposed by a centralised agreement.

Moreover, foreign MNCs may be more volatile than domestic owners. If foreign MNCs maintain capacity to produce the same product in different national markets, they can more quickly respond to changing market conditions in the host country by shifting production to

facilities in other countries. This higher volatility can imply that foreign owners are less interested in building long-term cooperation with the local workforce and, hence, do not use centralised contracts as a self-commitment device. Altogether, it can be expected that foreign-owned firms are more likely to prefer a bargaining-free membership status than domestically owned ones.

### 3.4 | Firm size and firm age

Larger firms should have a smaller propensity for choosing a bargaining-free membership status than smaller ones. As larger firms usually pay higher wages than smaller ones, they are more likely to view the wages specified in industry-level agreements as being appropriate. They are less likely to view an industry-level agreement as entailing higher wage costs (Schnabel et al., 2006). Larger firms even may save labour costs if the wages specified in an industry-level agreement are lower than those they had to pay in the case of firm-level negotiations. Specifically, large firms not covered by an industry-level agreement face a higher risk of being targeted by unions. As larger firms can provide a higher number of unions members and often have higher rents that can be shared with workers, they face a stronger pressure to negotiate firm-level agreements if they choose a bargaining-free membership in an employers' association.

Moreover, smaller firms may have a particular interest in a bargaining-free membership if industry-level agreements disproportionately account for the specific situation of larger employers. Indeed, in Germany, smaller employers express dissatisfaction with the policies of employers' associations which disproportionately take the interests of larger member firms into account (Schnabel, 2005). Some employers' associations have weighted voting rights that favour members having a larger number of employees or paying a higher amount of membership dues (Behrens, 2018). However, even in those employers' associations that follow the 'one member, one vote' principle, larger member firms are very likely to have greater influence than smaller ones. They have more resources to play an active role in an employers' association and the directors of the association are more likely to pay attention to the interests of well-paying members.

The age of the firm is also very likely to play a role in the employer's preference for a bargaining-free membership. Younger firms should have a higher propensity of choosing a bargaining-free membership status. As younger firms learn to a larger degree through trial and error, their internal organisation is more in flux. Hence, they are more likely to view industry-level agreements as imposing too many restrictions on their flexibility (Schnabel et al., 2006). Furthermore, if younger firms have a lower ability to pay, collectively agreed wages may be too high for these firms. Finally, liability of newness implies that younger firms have a higher probability of failure. A higher probability of failure means a shorter expected time horizon and, hence, a lower interest in using collective bargaining coverage as a self-commitment device to build long-term cooperative relationships with the workforce.

## 4 | DATA AND VARIABLES

### 4.1 | Data set

Our empirical investigation uses representative firm data collected in the context of the research project 'Profit Sharing and Share Ownership of Employees in Germany' (Fietze et al.,



2012; Matiaske et al., 2009). The research project was conducted by Chemnitz University of Technology and University of Flensburg. The Hans Boeckler Foundation provided financial support. The survey was carried out by Produkt + Markt, a leading market research institute in Germany. The population of the survey consisted of firms in Germany with at least 150 employees. In November of 2007, the data were collected on the basis of a standardised questionnaire in telephone interviews with the top managers or personnel managers of 1201 randomly drawn firms. The data set is available to interested researchers through GESIS – Leibniz Institute for the Social Sciences.

The data set is unique in that it provides firm-level information not only on collective bargaining coverage, but also on membership in employers' associations.<sup>2</sup> This allows focusing on firms that are members of employers' associations. For the empirical analysis, I exclude the public sector and non-profit organisations. After eliminating observations for which full information is not available, the investigation is based on data from 417 firms.

## 4.2 | Collective bargaining status

Table 1 shows descriptive statistics on the collective bargaining status of firms which are members of employers' associations. The table confirms a strong overlap between membership in an employers' association and industry-level bargaining. About 73% of the firms are covered by an industry-level agreement. However, the overlap is far from being perfect. Roughly 14% of the firms are not covered by any collective agreement; that is, they have a bargaining-free membership status. Finally, about 13% of the firms are covered by a firm-level agreement. On the one hand, these may be firms preferring decentralised negotiations and at the same time seeking the support of employers' associations in the negotiations. On the other hand, these may be firms that initially chose a bargaining-free membership, but were pressured by unions to negotiate a firm-level contract.

## 4.3 | Explanatory variables

Table 2 provides the definitions and descriptive statistics of the explanatory variables. A dummy for the incidence of a works council captures worker representation at the firm level. Moreover, a variable for the unionisation of the workforce is included. The survey asks interviewees to indicate a category for the share of the firm's employees who are union members: 0%, 1%–10%, 11%–25%, 26%–50%, 51%–75% and 76%–100%. The variable for the share of union members is defined by the midpoints of the intervals.

Ownership is taken into account by a dummy equal to 1 if the firm is owned by a foreign company. I also include dummies for single firms and firms that are German parent companies. The reference group consists of firms which are subsidiaries of German companies. This is important as it helps estimating the influence of subsidiaries of foreign companies relative to subsidiaries of German companies. Thus, the estimated influence of the dummy for foreign ownership not simply reflects a general subsidiary effect, but instead the effect of a foreign owner.

<sup>2</sup>Other German datasets such as the IAB Establishment Panel or the Hannover Firm Panel do not contain this information.



**TABLE 1** Collective bargaining coverage among members of employers' associations

Collective bargaining coverage	Relative frequency (in %)
Covered by an industry-level agreement	73.38
Covered by a firm-level agreement	12.71
Bargaining-free membership	13.91

Note: Number of observations = 417.

**TABLE 2** Variable definitions and descriptive statistics of explanatory variables

Variable	Definition	Mean
Share of union members	Share of the firm's employees who are union members (in %). The variable is defined by the midpoints of the intervals for the share of union members: 0.0, 5.5, 18.0, 38.0, 63.0 and 88.0%.	31.047
Works council	Dummy equals 1 if the firm has a works council.	0.8561
Foreign-owned subsidiary	Dummy equals 1 if the firm is the subsidiary of a foreign company.	0.1223
Parent company	Dummy equals 1 if the firm is the German headquarter of a multi-firm company.	0.3861
Single firm	Dummy equals 1 if the firm is a single firm.	0.3813
Ln(firm age)	Log of the time span between the year 2008 and the year of foundation of the firm.	3.9366
Ln(firm size)	Log of number of employees in the firm.	6.1113
East Germany	Dummy equals 1 if the firm is located in East Germany.	0.0935

Note: Number of observations = 417. The reference group of the dummy variables for foreign-owned subsidiaries, parent companies, and single firms consists of domestically owned subsidiaries.

The empirical analysis also accounts for firm size and firm age. Firm size is measured by the number of employees. Firm age is defined as the time span between the year 2008 and the year of foundation of the firm. To account for nonlinear influences of firm size and firm age, the log of both variables is used.

Finally, regional differences in the propensity to participate in collective bargaining are accounted for by a dummy for firms located in East Germany. Following reunification, the transfer of western German industrial relations to East Germany resulted in a series of frictions (Hyman, 1996; Schmidt, 2003). Despite a much lower productivity than in West Germany, unions and employers' associations negotiated excessively high wages in East Germany. The high wages led many East German firms to opt out of industry-level bargaining.

## 5 | REGRESSION RESULTS

### 5.1 | Basic estimation

Table 3 provides the regression results for firms which are members of an employers' association. The determinants of bargaining-free membership and coverage by a firm-level

TABLE 3 Multinomial probit regression

Variable	Membership and firm-level agreement	Bargaining-free membership
Share of union members	−0.0023 [0.0004] (0.50)	−0.0280 [−0.0035] (3.17)**
Works council	−0.0459 [0.0223] (0.13)	−0.8920 [−0.1406] (2.87)**
Foreign-owned subsidiary	0.1361 [−0.0184] (0.32)	1.1979 [0.1862] (2.09)*
Parent company	−0.4259 [−0.0780] (1.18)	0.7361 [0.1097] (1.56)
Single firm	−0.3931 [−0.0795] (1.09)	0.9063 [0.1335] (1.98)*
Ln(firm age)	0.1164 [0.0278] (0.93)	−0.3983 [−0.0541] (3.08)**
Ln(firm size)	−0.1512 [−0.0140] (1.14)	−0.3257 [−0.0377] (2.22)*
East Germany	0.7224 [0.1455] (1.97)*	−0.3509 [−0.0608] (0.84)
Constant	−0.6436 (0.69)	2.6639 (2.65)**
Log likelihood	−273.5201	
Number of observations	417	

Note: Reference group: Firms which are members of employers' associations and are covered by an industry-level agreement. The table shows the estimated coefficients. Robust z-statistics are in parentheses. Average marginal effects are in square brackets.

\*Statistically significant at the 5% level.

\*\*At the 1% level.

agreement are estimated using a multinomial probit model. For each outcome category, the coefficients show the influence of the explanatory variables relative to the base category of firms covered by an industry-level agreement. Average marginal effects on the probability of an outcome category are calculated relative to the respectively two other categories.<sup>3</sup> This means that marginal effects on the probability of bargaining-free membership (firm-level bargaining) are calculated relative to industry-level and firm-level bargaining (bargaining-free membership and industry-level bargaining).

Most of the explanatory variables do not show a significant influence on firm-level bargaining. The only exception is the positive coefficient on the dummy variable for East Germany. By contrast, many of the variables emerge as significant determinants of a bargaining-free membership. The estimates conform to theoretical expectations.

The presence of a works council is a significantly negative determinant of a bargaining-free membership status. The influence is quantitatively quite substantial. Works council incidence decreases the probability of a bargaining-free membership by 14 percentage points. On the one hand, a works councils may represent unions' interest within the firm and pressure the employer to participate in industry-level bargaining. On the other hand, the employer himself may have an increased interest in an industry-level agreement to foster cooperative relationships with the works council.

The share of union members within the workforce is also a significantly negative determinant. A 10 percentage point higher share of union members is associated with a roughly 4 percentage point lower probability that the firm has a bargaining-free membership status. A

<sup>3</sup>Note that marginal effects and coefficients can have different signs because of the different reference groups.

unionised workforce may put stronger pressure on the employer to participate in industry-level bargaining and may increase the risk that the firm has to negotiate with unions over a firm-level agreement.

Foreign ownership is a significantly positive determinant of a bargaining-free membership. Subsidiaries of foreign parent companies have an almost 19 percentage point higher likelihood of being bargaining-free members of an employers' association. The result fits the notion that foreign MNCs tend to avoid centralised bargaining to have more scope for implementing unified management practices in their subsidiaries and using coercive comparisons of their subsidiaries in different countries. They may be also less interested in using centralised bargaining as a self-commitment device to build long-term cooperation with the local workforces.

Firm size emerges as a significantly negative determinant of a bargaining-free membership status. This result confirms the notion that particularly smaller employers make use of the option of a bargaining-free membership. Smaller employers are more likely to view the wages specified in industry-level agreements as being too high and may be dissatisfied with industry-level agreements disproportionately accounting for the specific situation of larger employers.

Finally, firm age is a significantly negative determinant. This means that younger firms are more likely to choose a bargaining-free membership status. Younger firms may tend to avoid industry-level agreements as they have a lower ability to pay or a shorter time horizon due to liability of newness. Moreover, their internal organisation may be more in flux so they tend to avoid the restrictions imposed by centralised bargaining.

## 5.2 | Robustness checks

So far, we have considered three types of member firms, those with a bargaining-free membership status, those covered by an industry-level agreement, and those covered by a firm-level agreement. One may argue that the latter group should be excluded from the analysis. An employer basically chooses between a membership with and a membership without coverage by an industry-level agreement. The coverage by a firm-level agreement may be seen as a later consequence of a bargaining-free membership that is less of the employer's choice, but is instead forced by unions. Indeed, in the multinomial probit regression, almost all of the explanatory variables did not emerge as significant determinants of firm-level bargaining. Thus, as a check robustness, I exclude firms with firm-level agreements from the estimation sample and run a probit regression solely considering members with a bargaining-free status and members covered by an industry-level agreement. Column (1) of Table 4 shows that this exercise confirms the key results.

Finally, note that not all of the employers' associations offer the opportunity of a bargaining-free membership. To the extent the propensity to offer this opportunity differs across industries, the likelihood of being a bargaining-free member does not only depend on a firm's specific characteristics, but also on its industry affiliation. To check whether controlling for industry influences the results on the role of firm characteristics, the probit regression in column (2) additionally includes six industry dummies. This robustness check also confirms the basic pattern of results.

TABLE 4 Probit regressions

Variable	Bargaining-free membership	
	(1)	(2)
Share of union members	−0.0218 [−0.0040] (3.14)**	−0.0246 [−0.0043] (3.28)**
Works council	−0.6425 [−0.1448] (2.72)**	−0.7080 [−0.1496] (2.73)**
Foreign-owned subsidiary	0.9021 [0.2032] (2.08)*	0.9633 [0.1991] (2.20)*
Parent company	0.5355 [0.1025] (1.54)	0.6050 [0.1088] (1.80)
Single firm	0.6159 [0.1197] (1.83)	0.7373 [0.1369] (2.22)*
Ln(firm age)	−0.2843 [−0.0526] (3.01)**	−0.3378 [−0.0592] (3.36)**
Ln(firm size)	−0.2744 [−0.0508] (2.40)*	−0.2514 [−0.0441] (1.98)*
East Germany	−0.1037 [−0.0186] (0.34)	0.0788 [0.0141] (0.23)
Constant	2.1835 (2.78)**	−2.0037 (2.58)**
Six industry dummies	Not included	Included
Pseudo $R^2$	0.2474	0.2913
Number of observations	364	364

*Note:* Reference group: Firms which are members of employers' associations and are covered by an industry-level agreement. Member firms with firm-level agreements are excluded from the regressions. The table shows the estimated coefficients. Robust  $z$ -statistics are in parentheses. Average marginal effects are in square brackets.

\*Statistically significant at the 5% level.

\*\*At the 1% level.

## 6 | CONCLUSIONS

The decision of employers' associations to create bargaining-free membership as a new membership category has contributed to an increased fragmentation and heterogeneity of industrial relations in Germany over the last decades. However, so far there has been no systematic evidence of the specific characteristics of firms using the option of a bargaining-free membership. This study provides a first step to close the research gap. Using data from member firms, it examines the determinants influencing the choice of a bargaining-free membership over a membership coupled with adherence to an industry-level agreement. The study shows that works councils, workers' unionisation, foreign ownership, firm size and firm age are important determinants.

The empirical analysis confirms the widely held view that smaller firms are more likely to use the option of a bargaining free membership. The consequences of this finding for the German industrial system are ambiguous. On the one hand, the option of a bargaining-free membership status may help employers' associations retain smaller firms which otherwise would quit their membership. On the other hand, a bargaining-free membership of smaller firms may result in an increased marginalisation of these firms in employers' associations and may even imply a vicious circle. As smaller member firms do not participate in industry-level bargaining, employers' associations increasingly pay attention to the interests of larger member firms which are affected by industry-level agreements. This in turn leads more smaller firms to prefer a bargaining-free membership and reinforces the propensity of employers' associations to adjust their policy toward larger members.

A similar reasoning applies to younger firms. The estimates show that younger firms are more likely to choose a bargaining-free membership status. On the one hand, offering a bargaining-free membership status may help employers' associations retain and attract younger firms which may be willing to participate in industry-level bargaining as they grow older. On the other hand, a bargaining-free membership could imply that employers' associations do not give sufficient attention to the needs of younger member firms and rather treat them as peripheral members.

The analysis also shows that industrial relations at the firm level play a crucial role. Employers are less likely to choose a bargaining-free membership if a works council is present in the firm and a high share of the workforce is unionised. However, works councils and unionisation are both in decline in Germany. The results of this study suggest that this development reinforces firms' propensity to choose a bargaining-free membership and, hence, contributes to a fragmentation of collective bargaining. This has an important policy implication. Measures strengthening works councils and unionisation can also be in the interest of employers' associations as such measures indirectly increase firms' willingness to participate in industry-level bargaining.

Finally, the analysis shows that subsidiaries of foreign parent companies are more likely to choose a bargaining-free membership than subsidiaries of German parent companies. This finding supports the view that foreign ownership is a challenge for national collective bargaining systems. The behaviour of foreign-owned firms follows the transnational logic of MNCs. They tend to implement unified management practices of their foreign parent companies and are subject to coercive comparisons. Foreign owners also may be more volatile and, hence, less interested in building long-term cooperation with the local workforce. Altogether, this makes it difficult to integrate foreign-owned firms into the traditional German system of industry-level bargaining. However, mobilising workers who put pressure on foreign-owned firms could be one way to induce these firms to participate in industry-level bargaining (Jirjahn, 2022a). This again points to the importance of a high unionisation rate of the workforce.

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## CONFLICT OF INTEREST

The author declares no conflict of interest.

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