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Working Paper

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Diskussionspapiere, No. 130

Provided in Cooperation with:
Friedrich-Alexander-University Erlangen-Nuremberg, Chair of Labour and Regional Economics

Suggested Citation: Kohaut, Susanne; Schnabel, Claus (2024) : The demise of works councils in Germany, Diskussionspapiere, No. 130, Friedrich-Alexander-Universität Erlangen-Nürnberg, Lehrstuhl für Arbeitsmarkt- und Regionalpolitik, Nürnberg

This Version is available at:
https://hdl.handle.net/10419/300661

FRIEDRICH-ALEXANDER-UNIVERSITÄT ERLANGEN-NÜRNBERG

Lehrstuhl für VWL, insbes. Arbeitsmarkt- und Regionalpolitik
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Diskussionspapiere
Discussion Papers

NO. 130

The Demise of Works Councils in Germany

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MAI 2024

ISSN 1615-5831

Editor: Prof. Dr. Claus Schnabel, Friedrich-Alexander-Universität Erlangen-Nürnberg

The Demise of Works Councils in Germany*

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Abstract: This paper documents and analyses the demise of works councils in Germany in the period 2007-2022. Using representative panel data, we show that the share of plants with a works council has fallen substantially in the private sector but not in the public sector. Almost two-thirds of workers in the private sector in Germany are not covered by worker co-determination anymore. We present first evidence that firm dynamics (i.e. entries and exits of firms) seem to be one contributory factor to the reduction in works council coverage over time. Multivariate analyses indicate that three variables play an important role in explaining the (non-)existence and the dissolution of works councils. These are plants' decreasing coverage by collective bargaining agreements, the growing relevance of alternative, non-statutory forms of worker representation, and the owner-management of a plant. As our results paint a bleak picture for the future of plant-level co-determination in Germany, we critically discuss a number of policy measures to stabilize works council prevalence.

Zusammenfassung: Diese Studie dokumentiert und analysiert den Niedergang von Betriebsräten in Deutschland im Zeitraum von 2007 bis 2022. Mit repräsentativen Paneldaten zeigen wir, dass der Anteil der Betriebe mit einem Betriebsrat im privaten (nicht aber im öffentlichen) Sektor deutlich zurückgegangen ist. Fast drei Drittel der Beschäftigten im privaten Sektor werden nicht mehr von der betrieblichen Mitbestimmung erfasst. Wir präsentieren erstmals empirische Evidenz, dass Firmendynamiken (d.h. Ein- und Austritte von Firmen) zum Rückgang der Verbreitung von Betriebsräten beizutragen scheinen. Multivariate Analysen deuten darauf hin, dass drei Variablen eine wichtige Rolle bei der Erklärung der (Nicht-)Existenz und Auflösung von Betriebsräten spielen. Diese sind die abnehmende Tarifbindung der Betriebe, die zunehmende Bedeutung von alternativen, nicht gesetzlich festgelegten Formen der Arbeitnehmermitbestimmung sowie eigentümergeführte Betriebe. Da unsere Ergebnisse ein düsteres Bild der künftigen betrieblichen Mitbestimmung in Deutschland zeichnen, diskutieren wir kritisch verschiedene Politikmaßnahmen zur Stabilisierung der Verbreitung von Betriebsräten.

Keywords: works council, co-determination, worker participation, Germany

JEL classification: J53, M50

*The authors would like to thank Boris Hirsch and Michael Oberfichtner for helpful comments and suggestions.

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1. Introduction

In Germany, worker co-determination rights at the establishment level are more wide-reaching than in most other countries. Together with worker representation on company boards and collective bargaining agreements at the sectoral level, worker co-determination via works councils is one of the crucial pillars of the German model of industrial relations (Jäger et al. 2022). In recent years, some observers pointed out that major components of the German IR system have been weakening over the last decades (e.g., Schroeder 2016, Addison et al. 2017, Oberfichtner and Schnabel 2019, Jäger et al. 2022), thus confirming the "erosion" of the system diagnosed early by Hassel (1999). In empirical research, much attention has focused on the spectacular decline in plants' collective bargaining coverage in Germany, which more than halved in the last 25 years (see, e.g., Kohaut and Schnabel 2003, Addison et al. 2016, Hohendanner and Kohaut 2023). However, a less spectacular but equally important change seems to be going on in the field of co-determination via works councils. There are signs that the share of establishments with works councils has slightly decreased and the share of workers represented by a works council has substantially fallen in the last decade (Hohendanner and Kohaut 2023). These signs are the starting point of the present analysis. Using a large, representative panel data set, it charts the development of worker co-determination in Germany over the last 16 years and intends to find out which factors can explain why more and more (existing as well as new) plants do not have a works council anymore.

Although the German Works Constitution Act stipulates that works councils are mandatory in all establishments that have five or more employees, they do not exist automatically.[1] Works councils must be elected by the entire workforce in the plant, and workers are free not to set up a works council. The number of councillors in a works council is fixed by law and rises with the number of workers in a plant. The Works Constitution Act gives works councils not only information and consultation rights (as in some other countries) but also substantial co-determination rights on social matters. These include remuneration arrangements, the regulation of working time, health and safety measures, and the introduction of new technologies in the plant. Works councils are independent from trade unions (although many works councillors are union

[1] For more details on the institutional background of worker co-determination in Germany, see, e.g., Addison (2009), Mohrenweiser (2022), and Jäger et al. (2022).

members) and unlike trade unions, they may not initiate a strike or bargain about wages and working conditions that are normally laid down in collective agreements. Nevertheless, works councils are powerful actors and their existence has been shown to be significantly associated with crucial economic indicators like labour productivity, employee turnover, working time flexibility and profitability in a plant (see the surveys by Jirjahn and Smith 2018, Schnabel 2020, and Mohrenweiser 2022).

While there is a large literature on the institutional set-up, the rights and the economic effects of works councils (reviewed by Addison 2009 and Mohrenweiser 2022), not so many studies have analysed the determinants of works council existence. They typically show that the probability of having a works council is related to the size and age of a plant, its economic situation, its management and ownership structure, the composition of its workforce, and the existence of collective bargaining agreements (see, e.g., Addison et al. 2003, Hauser-Ditz et al. 2008, Ertelt et al. 2017, and Gerner et al. 2019). Some studies have analysed the introduction of works councils, finding that factors like plant size, collective bargaining and profit-sharing arrangements play a role here and that works councils are typically set up in bad times to protect the workers (see, e.g., Kraft and Lang 2008, Jirjahn 2009, and Oberfichtner 2019).

Not many studies have investigated why fewer and fewer workers are nowadays covered by co-determination via works councils. Ellguth and Trinczek (2016) show that the decline in works council coverage since 1996 has been concentrated in medium-sized plants and is related to the reduction in bargaining coverage. The fall in works council coverage – with the notable exception of the public sector – is also charted by Addison et al. (2017), Oberfichtner and Schnabel (2019), and Hohendanner and Kohaut (2023), but these studies mainly report figures and do not investigate the reasons behind the decline. Finally, some studies show that in a growing number of plants alternative, non-statutory forms of worker representation set up by management exist (such as round tables) that do not have the extensive legal powers of works councils. However, their relationship with works council non-existence is not clear yet (e.g., Hauser-Ditz et al. 2008, Ertelt et al. 2017). A recent survey on co-determination at plant level thus concludes that “the causes of the decline are not well understood” (Jäger et al. 2022, p. 74).

The present study aims to overcome this research deficit by investigating the following four research questions:

RQ 1): What are the shares of establishments with (without) a works council and of workers (not) covered by a works council? Do they vary across sector and plant size and have they changed over time?

RQ 2) What are the main determinants of works council (non-)existence? Do the presence of non-statutory worker representation, the ownership structure of a plant and its bargaining coverage play a role?

RQ 3) Does the decline of works councils mainly reflect firm dynamics, that is incumbent plants with works councils going out of business and new plants not establishing works councils?

RQ 4) What are the determinants of works council disappearance in still-existing plants? Do the existence of non-statutory worker representation, the ownership structure of a plant and bargaining coverage play a role?

To answer these questions, we use representative panel data for plants in Germany that cover the period 2007 to 2022 and contain information on industrial relations at the plant level, including the existence of various forms of worker representation and collective bargaining. Our paper contributes to the literature in at least three ways. First, we document that the share of plants with a works council has slightly fallen in the private sector whereas the share of employees working in plants covered by a works council has declined more markedly, with variations by plant size, plant age and sector. We also provide first evidence that firm dynamics, i.e. the entry and exit of plants, seem to have contributed to the reduction in works council coverage over time. Second, we econometrically analyse the major determinants of works council presence. In addition to standard determinants like plant size and collective bargaining agreements, we focus on new factors like the emergence of alternative, non-statutory forms of worker representation and the owner-management of a plant. Due to lack of data, these potential determinants could not be investigated in previous analyses of works council demise (e.g. Ellguth and Trinczek 2016), but they prove to be quite important. Third, we are the first to investigate which factors at the plant level are associated with the dissolution of works councils in still-existing plants. Our results underscore the relevance of plants' size and bargaining coverage, their ownership structure and the presence of alternative forms of worker representation.

2. Data and descriptive evidence

Like most of the extant studies on plant-level co-determination in Germany, we make use of the IAB Establishment Panel, which is the only source that provides annual data on industrial relations at the plant level (for details, see Ellguth et al. 2014). Since 1993, the IAB Establishment Panel has surveyed plants from all industries using a stratified random sample of all plants that employ at least one worker covered by the German social security system at the 30th June of a year. The data are mainly collected in personal interviews with the owner or management of the plant. The interviewed plants have been shown to be representative of the underlying official administrative population (Bossler et al. 2018).

As the IAB Establishment Panel has been set up to meet the needs of the German Federal Employment Agency, it contains detailed information on the number of workers, the composition of the workforce, the plant's ownership, exporting activity and production technology, its business policies, training activities and industrial relations regime. Most important for our analysis, establishments are asked whether there exists a works council or another, non-statutory form of worker representation in the establishment (such as speakers of the workforce or round tables).

Our observation period extends over 16 years from 2007, when plants were first asked whether they are managed by the owner(s), to 2022. Throughout the analysis, we consider only establishments (not firms) that have five or more employees since by law works councils can only be set up in these plants. We report cross-section weighted results for the shares of plants covered by works councils and the corresponding shares of employees covered. When disaggregating the data by broad sectors, we must be aware that the industry classification used in the survey changed in 2009, so that comparisons between industries or sectors and across time should be interpreted cautiously. Nevertheless, we are able to group industries into several consistent broad sectors (see also Oberfichtner and Schnabel 2019, Appendix Table 1). Using a question on plants' legal form, we distinguish between the public and the private sector, and subdivide the latter into the primary sector, manufacturing, construction, and services. To obtain a complete picture of the (non-)presence of works councils in Germany, we first look at the entire economy and then focus on the private sector.

(Table 1 about here)

Table 1 shows that the share of plants (with five or more employees) with a works council has largely remained constant over time in the public sector but has fallen in the private sector.[2] Whereas in the private sector 10.1 percent of plants in Germany did have a works council in 2007, in 2022 this was only the case in 7.8 percent of plants – a reduction of 2.3 percentage points or almost 23 percent. The change is also substantial when looking at the share of employees working in plants with a works council. In the private sector, 38.7 percent of workers are still represented by works councils in 2022, a reduction by almost 6 percentage points since 2007. Expressed differently, almost two-thirds of workers in the private sector are not covered by worker co-determination anymore. The fall in employees' works council coverage is found across all sub-sectors of the private sector listed in Table 1 but it is most pronounced in the construction sector (whereas the manufacturing sector is still a stronghold of worker co-determination). In contrast, 87 percent of workers are covered by works councils in the public sector in 2022, and this rate has hardly changed over time.[3] Taken as a whole, these figures suggest that worker co-determination has become an endangered species in Germany, at least in the private sector.

(Figure 1 about here)

Since the public sector seems to be an exceptional case with works council coverage being still relatively high and rather stable over time, we now follow the literature (e.g., Addison et al. 2017) and focus on the private sector, where substantial changes have taken place. Figure 1 presents a disaggregation of works council presence by three categories of plant size, measured by employment. It can be seen that small plants with 5 to 50 employees seldom have a works council, probably because workers in these plants can directly communicate and interact with management without the need to set up a works council. The low works council coverage in this plant size category has not changed much over time. In contrast, works councils are more widespread in medium-sized and large establishments, probably reflecting that potential savings in transaction costs are higher, that communication and monitoring are more difficult and

[2] Note that the equivalent of a works council in public administration is called a "staff council", and that some plants in the public sector (which is broader than just public administration) have works councils rather than staff councils. However, this distinction between works council and staff council is not made in the questionnaire of our survey and it is not important in our analysis where we will mainly concentrate on the private sector.

[3] The special situation and development in the public sector is in parallel with the high and largely stable bargaining coverage in this sector (see Oberfichtner and Schnabel 2019) and the above-average union density among public sector employees (see Schnabel 2007).

that the rights and powers of works councils are more pronounced in larger plants, which makes it more attractive for employees to set up a works council.[4] It is striking that both in medium-sized plants (with 51 to 200 employees) and in large plants (with more than 200 employees) the shares of plants with a works council have substantially fallen over time. Whereas 46 percent of medium-size plants did have a works council in 2007, this share has steadily fallen to 34 percent in 2022. In large plants, there was a reduction in works council coverage from 81 percent in 2007 to 74 percent in 2022. This erosion of worker co-determination in large and medium-sized establishments has already been noted by Ellguth and Trinczek (2016), but their data only covered the period until 2014. The ongoing reduction in works council presence in medium-sized and large establishments explains why the fall in worker co-determination has been more pronounced in terms of employees covered.

(Table 2 about here)

In Table 2, we present the share of (private sector) plants with a works council disaggregated into three categories of plant age.[5] We see that in mature plants (which we define as plants that are 11 years or older) works council coverage is still more than 10 percent and has only slightly fallen over the years. In contrast, in new plants (not older than 5 years), works council coverage has substantially shrunk to only 2.5 percent in 2022, from 6.6 percent in 2007. Also, in the group of young plants that are between 6 and 10 years old, the share of plants with a works council has gone down between 2007 and 2022. Although it is not surprising that new firms are less likely to have undergone the process of setting up a works council (and some plants may still catch up later), the substantial reduction in works council coverage both in new and young plants paints a bleak picture for the future of worker co-determination.

(Figure 2 about here)

To further analyse the dynamics of works council (non-)existence, Figure 2 reports the share of plants with a works council in three distinct groups, namely incumbent plants

[4] Note that according to the Works Constitution Act, in plants with more than 50 employees works councils may set up a health and safety committee and in plants with more than 200 employees some members of the works council are allowed to perform their duties full-time.

[5] The boundaries of these three categories may seem arbitrary, but the first category of new plants that are not older than five years can be justified by studies on plant demography such as Brixy et al. (2006). They show that the visible differences in wage levels and working conditions between new and incumbent plants become insignificant once plants are five years in business.

that still exist in a certain year, plants that stopped operating in this year,[6] and new plants.[7] We see that in the year before they stopped operating, exiting plants sometimes had a higher or a lower share of works councils than the population of plants that continued to exist. We thus cannot say that the fall in works council coverage is mainly due to plants with above-average works council coverage leaving the market. What is striking, however, is the fact that in each year works council coverage is lower among new plants than among plants which stopped operating. This finding illustrates that firm dynamics, i.e. the entry and exit of plants, seem to have contributed to the reduction in works council coverage over time.[8]

(Figure 3 about here)

Focusing on those plants that continue to exist in the following year, Figure 3 shows the share of plants where a works council ceases to exist in the following year – an aspect that has not received much attention so far. Note that our dataset contains no information on the reasons why a works council stopped operating. This could be the case if all members of a works council left the plant or stepped down from office and were not replaced, if the employees did not want to re-elect a works council after the end of its four-year period in office, or if a plant closed down (but we exclude the latter case by looking at surviving plants only). Figure 3 shows that share of plants where works councils cease to exist fluctuates between 4 and 12 percent, with an average of 7.2 percent per year. Interestingly, the dissolution of works councils is much more frequent in small plants (with 5 to 50 employees) than in larger plants. This aspect will be further investigated in our multivariate analysis.

3. Multivariate analysis

Although the descriptive results reported above are quite instructive, we need a multivariate analysis to find out whether the factors identified so far plus further potential determinants play an important role in explaining the (non-)existence and disappearance of works councils in Germany. Using pooled annual data from the IAB

[6] Plant closure is reported by the interviewer.
[7] Plants are identified as “new” if they did not have an employee under social security the year before the survey.
[8] Strictly speaking, this conclusion is only correct if the numbers of new and exiting plants are the same. However, even if this may not always be the case, the fact that works council coverage is lower in new than exiting plants in every year can be seen as an indication (not a proof) of the negative effect of firm dynamics on works council presence.

Establishment Panel for the observation period 2007 to 2022, we run probit models both for the probability of the existence of a works council in a plant and for the probability of works council dissolution (as well as complementary log-log regressions as a robustness check which takes account that these are rare events).[9]

The dependent variable in our first model is a dummy that takes the value of one if a works council exists in a plant (and zero otherwise). Our explanatory variables include those variables which have been identified in previous empirical studies as the main determinants of worker representation and which we mainly regard as control variables (see, e.g., Addison et al. 2003, Hauser-Ditz et al. 2008, Ertelt et al. 2017, Oberfichtner and Schnabel 2019). These are six plant size dummies, the composition of the workforce (shares of women, highly qualified workers, marginal workers, fixed-term workers and part-time workers), dummies for plants' export activity, legal form, single-establishment status and foreign ownership as well as a dummy for up-to-date technical equipment. We also control for the plants' sector affiliation and its location (in eastern or western Germany) and include year dummies in our estimations.

Our four main variables of interest are those where we suspect that they may play an important role in explaining the demise of the works council. We include a dummy for the existence of collective bargaining agreements (at the sectoral or plant level), expecting a positive correlation with works council presence since works councils are needed to monitor the functioning of collective agreements (Schnabel 2020).[10] Such a positive correlation would imply that reduced bargaining coverage goes hand in hand with lower worker representation. Another dummy indicates whether alternative, non-statutory forms of worker representation exist that may substitute works councils even if they do not have the same legal powers (see Hauser-Ditz et al. 2008, Ertelt et al. 2017). We further add a dummy variable indicating whether the plant is managed by the owner(s) since previous literature has argued that there is a negative relationship between the existence of owner-management in an establishment and the probability of having a works council. Although it is the employees in an establishment and not

[9] Although a panel estimation relying on within-plant variation would be technically possible with our data, we use pooled data estimation for various reasons. First, changes in works council existence (our dependent variable) are rare events. Second, some main explanatory variables of our analysis are either time-invariant (such as location in eastern Germany) or practically time-invariant (such as owner-manager status, legal status and sector affiliation). Thus, a panel estimation that exploits within-plant changes would eliminate meaningful variation in variables of interest.

[10] We do not distinguish between bargaining agreements at the sectoral or plant level since the monitoring function of the works council is the same in both cases. Moreover, only two percent of plants in Germany do conclude bargaining agreements at the plant level (see Hohendanner and Kohaut 2023).

the owners who decide whether they want to set up a works council, owners may try to prevent the formation of a works council if they wish to remain the ultimate boss in the establishment, and there are some reports that such antagonistic behaviour has increased in recent years (see, e.g., Jirjahn and Mohrenweiser 2016, Müller and Stegmaier 2020, Kölling and Schnabel 2022). Finally, we include three plant age dummies to see whether the descriptive relationships identified in Table 2 also hold in a multivariate context, which would suggest that firm demographics (i.e., the exit of older plants with works councils and their replacement with young plants without worker representation) contributes to the demise of works councils.

The estimation results of our probit model of the probability of having a works council are reported in the first column of Table 3 (model 1). Starting with our control variables, we see that the coefficients of almost all explanatory variables are statistically significant at conventional levels and have plausible signs. Consistent with our descriptive results in Figure 1, the probability of works council presence tends to rise with plant size. In particular, plants with more than 50 employees show a much higher probability of having a works council than small plants. This probability also increases with the share of qualified workers and with part-timers in the workforce whereas it decreases with the shares of marginal employees and fixed-term employees. Works council presence is highest in manufacturing and the primary sector, it is significantly higher in exporting and in foreign-owned plants, and it is slightly lower in single establishments, in plants with up-to-date technical equipment and in eastern Germany, ceteris paribus. Moreover, the year dummies are statistically significant and negative (compared to the reference year 2007). This indicates that – in particular since 2013 – there has been a negative time trend independent of the developments of the other explanatory variables, which works against plant-level co-determination (detailed estimation results available on request).

(Table 3 about here)

Turning to our main variables of interest, we see that the existence of a collective bargaining agreement shows the positive correlation with works council presence found in previous studies (e.g., Addison et al. 2003, Ertelt et al. 2017). The probability of having a works council is about 12 percentage points higher if a plant is covered by a collective agreement, ceteris paribus. The substantial fall in bargaining coverage in

Germany in the last decades thus goes hand in hand with reduced worker representation.

Model 1 in Table 3 further shows that the existence of alternative, non-statutory forms of worker representation in a plant is associated with a drop in the probability of having a works council by 8 percentage points. This finding is consistent with the predominantly substitutive relationship between works councils and other forms of worker representation identified by Ertelt et al. (2017). As the incidence and coverage of these other forms of worker representation have tended to increase in our observation period (see Hohendanner and Kohaut 2023), this development may have contributed to the reduction in co-determination via works councils.

The incidence of works councils is also negatively and strongly related to the existence of owner-management in a plant. Plants that are exclusively or partly managed by the owner(s) record a probability of having a works council that is almost 12 percentage points lower compared to similar plants where the owners are not involved in the management. It is not fully clear whether this negative correlation mainly reflects employers' opposition to the formation of works councils or other factors like high work satisfaction that may induce workers not to set up a works council (for detailed discussions, see, e.g., Jirjahn and Mohrenweiser 2016, Müller and Stegmaier 2020, Kölling and Schnabel 2022). However, the observation that the share of plants with owner-management has tended to slightly rise over time (Kölling and Schnabel 2022) as well as reports in the media that employer opposition to works council formation seems to have increased both would suggest that these factors could play a certain, if limited role in the demise of the works council.

Finally, the estimation results in Table 3 suggest that works council incidence is related to the age of the plant, as already indicated by the descriptive results in Table 2. Compared to our reference group of mature plants of age 11 and more, younger plants show slightly lower probabilities of having a works council. However, albeit statistically significant, these differences are small in magnitude and should not be overemphasized.

In a second step, we restrict our sample to those plants that have a works council and continue to exist even after the dissolution of a works council (to avoid mixing up plant closures and works councils exits). Although this restriction reduces our sample size by more than 100,000 observations, we still have about 23,000 observations. The

dependent variable in our second model is a dummy that takes the value of one if a works council has ceased to exist in a plant from one year to the next (and zero otherwise). As there are no clear theoretical priors on the dissolution of works councils, in this exploratory study we simply use the explanatory variables included in the previous estimation which have been identified in the literature as the main determinants of worker representation.

The second column in Table 3 reports the results of estimating a probit model of the probability that a works council ceased to exist in a certain year (model 2), which on average happens in about 7.2 percent of plants per year. Not unexpectedly, the dissolution of a works council is much more difficult to explain than the existence of a works council. Fewer explanatory variables prove to be statistically significant determinants. For instance, the probability of works council dissolution is significantly lower the higher the share of qualified workers among the workforce whereas it is significantly higher the larger the shares of fixed-term and marginal employees (probably reflecting that these groups of workers have a lower attachment to the plant and a reduced interest in saving a works council). Works councils are also less likely to cease to exist in establishments with export activities. As in our investigation of works council presence above, we see a clear connection with plant size. The probability of works council dissolution is substantially lower in plants that have more than 20 employees (which is consistent with the descriptive evidence in Figure 3 discussed above). In these plants, the legal powers of the works council are more pronounced and their advantage in reducing transaction costs is probably larger than in small plants so that employees (and maybe even employers) have a strong interest in the upkeep of a works council. Interestingly, there are no statistically significant differences in works council dissolution between economic sectors and between eastern and western Germany.

Turning to our main variables of interest, model 2 in Table 3 shows that three of these four variables seem to play a role in explaining the dissolution of works councils. Although plant age is not statistically significantly related to works council dissolution, the existence of a collective bargaining agreement is. Plants that are covered by a collective agreement are less likely to stop having a works council, probably because works councils are valuable in monitoring the implementation of collective agreements. In contrast, the probability of works council dissolution is about two percentage points

higher in plants that possess alternative, non-statutory forms of worker representation. This finding would be consistent with other forms of worker representation substituting works councils, but we cannot explicitly test this with our data and refrain from making causal statements. Finally, the probability of works council dissolution is 1.7 percentage points higher in owner-managed plants compared to other firms. Although it is employees and not management who decide whether to (re-)elect a works council, the presence of owner-managers may create a climate in the plant where workers are hesitant to maintain a works council against the wishes of their bosses.

Since both the existence and the dissolution of a works council are rare events, we also performed complementary log-log regressions instead of our probit estimations. The results of these robustness checks (available on request) were quite similar and did not change our insights.

Finally, we also ran a multivariate decomposition analysis of the decline in works council presence applying the Fairlie (2005) method for binary outcome variables. This method computes the difference in the probabilities of works council presence between the first and the last year of our observation period and quantifies the contributions of our explanatory variables to the outcome differential. Using the 2007 sample as reference group, we find that about a quarter of the decline in works council presence until 2022 can be explained by changes in the structural characteristics of our explanatory variables. In particular, it is the decline in collective bargaining coverage that mainly drives the demise of works councils – a finding that is consistent with our results above and with previous results by Ellguth and Trinckzeck (2016) for an earlier period. However, when we apply the standard robustness check of reversing our reference and comparison group (i.e. using the 2022 sample as reference group), the decomposition explains much less (only about an eighth) of the difference in works council presence between 2007 and 2022, and the statistical significance of some explanatory variables is not robust. We therefore decided not to put much emphasis on the results of the decomposition analysis, which may have been stretched to its limits given that the overall decline in works council presence is just about two percentage points (results are available on request).

4. Concluding remarks

Using representative data from the IAB Establishment Panel, this paper has documen-

ted and analysed the demise of works councils in Germany over the observation period 2007 to 2022. We show that the share of plants (with five or more employees) with a works council has slightly fallen in the private sector whereas the share of employees working in plants with a works council has declined more markedly. Nowadays, almost two-thirds of workers in the private sector in Germany are not covered by worker co-determination anymore. We also present first evidence that in each year works council coverage is lower among new plants than among plants which stopped operating, so that firm dynamics seem to be one contributory factor to the reduction in works council coverage over time.

Multivariate analyses show that the probability of having a works council tends to rise with plant size and that it is substantially higher, ceteris paribus, if a plant is covered by a collective bargaining agreement. In contrast, the existence of alternative, non-statutory forms of worker representation in a plant (such as round tables) is associated with a lower probability of having a works council, and this probability is also negatively and strongly related to the existence of owner-management in a plant.

The same variables play an important role in explaining the dissolution of works councils. The probability that a works council ceases to exist is substantially lower in plants that have more than 20 employees. Plants covered by a collective bargaining agreement are also less likely to stop having a works council, probably because these bodies are crucial for monitoring the implementation of collective agreements. In contrast, the probability of works council dissolution is higher in plants with alternative, non-statutory forms of worker representation and in owner-managed plants, compared to other firms.

These results (as well as the negative ceteris paribus time trend on works council presence) paint a bleak picture for the future of plant-level co-determination in Germany. If the ongoing fall in collective bargaining coverage does not stop (and there is no reversal of the trend according to Hohendanner and Kohaut 2023), the related demise of works councils can be expected to continue. In addition, for those employers who regard statutory worker co-determination via powerful works councils as a straightjacket, more flexible non-statutory forms of worker representation present an interesting alternative. Although it is employees and not employers who decide whether to elect a works council, employers may exert some pressure on their workers not to use this option. Reports on increasing employer opposition towards establishing

works councils (e.g., Behrens and Dribbusch 2020, Thünken et al. 2020) point into this direction. In particular plants in which the owners are active in management more and more seem to belong to the co-determination-free zone.

Since worker co-determination is a crucial institution in the German model of industrial relations, the demise of the works council visible in our data and the various drivers of this process identified in this paper raise the question how works council prevalence can be stabilized. First of all, it is of paramount interest to stop the decline in collective bargaining coverage. However, this is easier said than done, and various policy measures such as innovative and more attractive collective agreements, opening clauses, and administrative extensions of collective agreements have brought mixed results in Germany and other countries (OECD 2019).

Another approach that could be pursued both by government and by trade unions would be to make the advantages and powers of works councils better known to the workers, so that these are more willing to set up works councils. Related, the 2001 reform of the Works Constitution Act tried to increase the number of works councils by simplifying the election procedure for small establishments (and extending works council powers), but this approach has not been successful (Bellmann and Ellguth 2006, Schnabel 2020).

It may also make sense to try to overcome the reservations of many employers by pointing to empirical evidence that on average the benefits of works councils exceed their costs for the establishment (and probably also for society). However, Müller and Stegmaier (2020) argue that for small establishments (in particular those which are not bound by collective agreements) works councils have only small effects or no effects at all, and these establishments may be strong enough to organize resistance against worker co-determination at the level of employer associations. In recent years, media reports and case studies on mounting employer opposition against works councils (e.g., Thünken et al. 2020) have prompted some political parties to call for reforms that would make employer obstruction against works council formation a criminal offence liable to public prosecution. Based on past experience, however, it seems unlikely that this and other reforms of the Works Constitution Act proposed by unions (such as giving works councils additional rights) would make a big difference and stop the creeping erosion of worker co-determination via works councils.

Table 1: Share of plants and employees with a works council by sector (in %)

	Share of plants with a works council (in %)		Share of employees in plants with a works council (in %)	
Sector/year	2007	2022	2007	2022
Public sector	54.5	59.7	86.6	87.0
Private sector	10.1	7.8	44.3	38.7
- Primary sector	8.4	9.4	44.3	35.8
- Manufacturing	15.4	13.9	66.3	63.7
- Construction	3.1	2.3	18.3	13.6
- Service sector	10.1	7.7	36.5	33.6

Notes: weighted data; sample restricted to plants with five or more employees
Source: IAB Establishment Panel, own calculations

Table 2: Share of plants with a works council by plant age (in %)

Plant age/year	2007	2022
0-5 years	6.6	2.5
6-10 years	5.2	3.7
11 years and older	11.6	10.3

Notes: weighted data; sample restricted to plants with five or more employees in the private sector
Source: IAB Establishment Panel, own calculations

Table 3: Determinants of the existence and dissolution of works councils, 2007-2022 (pooled probit estimations, marginal effects, private sector)

	Model 1	Model 2
Dependent variable	Presence of a works council	Dissolution of a works council
Explanatory variables		
Collective bargaining agreement (dummy: 1 = yes)	0.1215** (0.0069)	-0.0091** (0.0026)
Alternative form of worker representation (dummy: 1 = yes)	-0.0810** (0.0041)	0.0211** (0.0097)
Owner manager (dummy: 1 = yes)	-0.1155** (0.0035)	0.0169** (0.0031)
Establishment age (reference: 11 years or more)		
…1-5 years	-0.0170** (0.0045)	0.0040 (0.0044)
…6-10 years	-0.0212** (0.0044)	0.0048 (0.0042)
Establishment size (reference: 5-9 empl.)		
10-20 employees	0.0317** (0.0056)	-0.0186 (0.0206)
21-50 employees	0.0849** (0.0058)	-0.0643** (0.0188)
51-100 employees	0.1880** (0.0075)	-0.0935** (0.0187)
101-200 employees	0.2730** (0.0093)	-0.1033** (0.0187)
201+ employees	0.3948** (0.0116)	-0.1131** (0.0186)
Workforce composition		
Share of women	-0.0083 (0.0084)	0.0115 (0.0060)
Share of highly qualified workers	0.0762** (0.0070)	-0.0200** (0.0047)
Share of marginal workers	-0.2866** (0.0195)	0.0352** (0.0122)
Share of fixed-term workers	-0.0842** (0.0128)	0.0211* (0.0097)
Share of part-time workers	0.01057** (0.0098)	0.0004 (0.0073)
Exporting establish-ment (dummy: 1 = yes)	0.0130** (0.0039)	-0.0111** (0.0033)
Legal status (dummy: individually-owned	-0.0772** (0.0072)	0.0105 (0.0057)

firm or partnership = 1)		
Single establishment (dummy: 1 = yes)	-0.0454** (0.0036	0.0023 (0.0027)
Foreign ownership (dummy: 1 = yes)	0.0222** (0.0055)	0.0028 (0.0038)
Technical equipment up-to-date (dummy: 1 = yes)	-0.0259** (0.0036)	-0.0014 (0.0032)
Sectors (reference: construction)		
Primary sector	0.0951** (0.0112)	-0.0100 (0.0069)
Manufacturing	0.0983** (0.0079)	-0.0034 (0.0061)
Service sector	0.0362** (0.0076)	0.0047 (0.0062)
Eastern Germany (dummy: 1 = yes)	-0.0341** (0.0041)	-0.0017 (0.0027)
Year dummies	**	**
No. of observations	132,411	22,835

Note: only establishments with five or more employees; unweighted values, robust standard errors in brackets; */** denote 5/1% level of statistical significance
Source: IAB Establishment Panel, own calculations

Figure 1: Share of plants with a works council by plant size (in %)

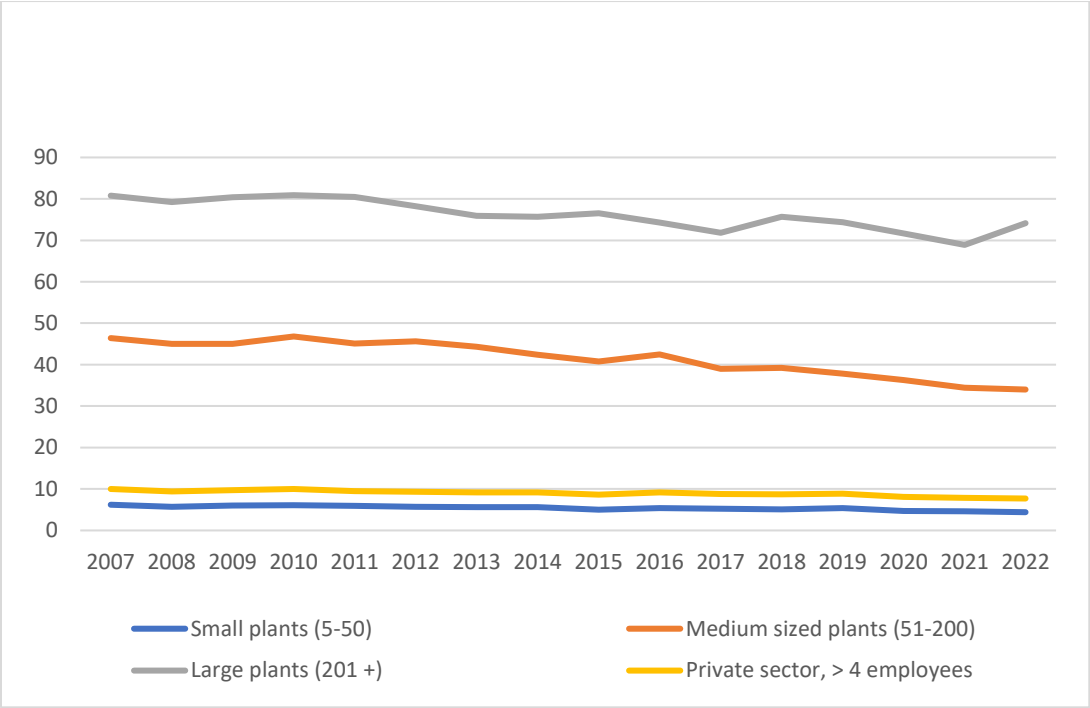


Figure 2: Works council presence in existing, exiting and new plants (in %)

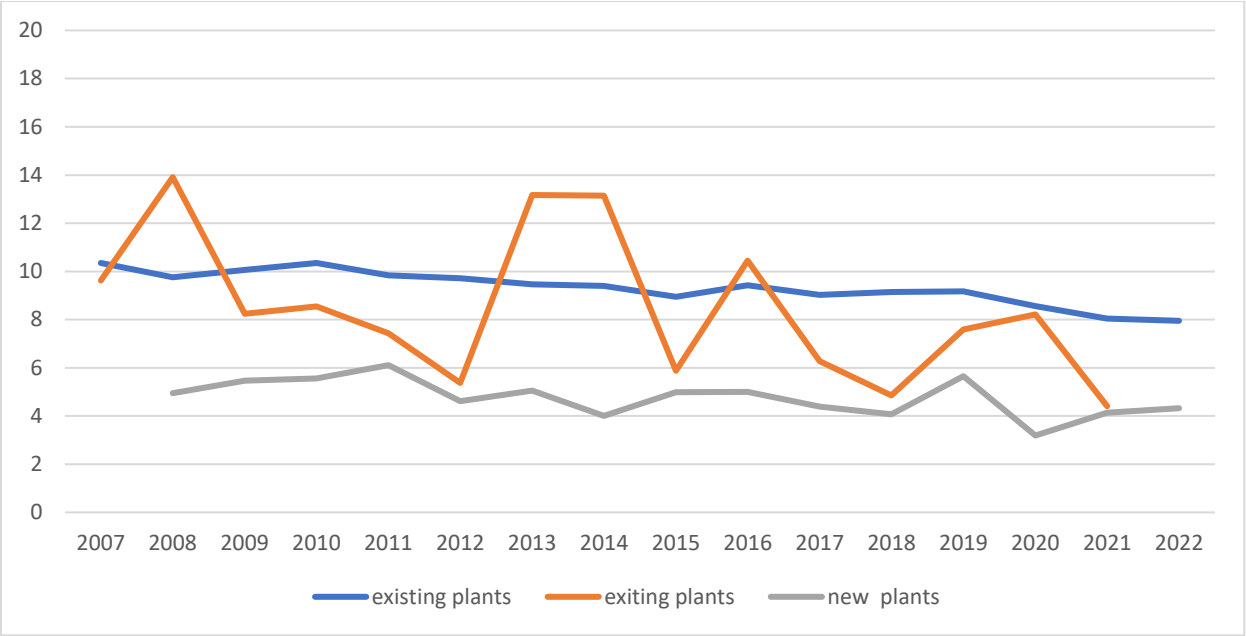
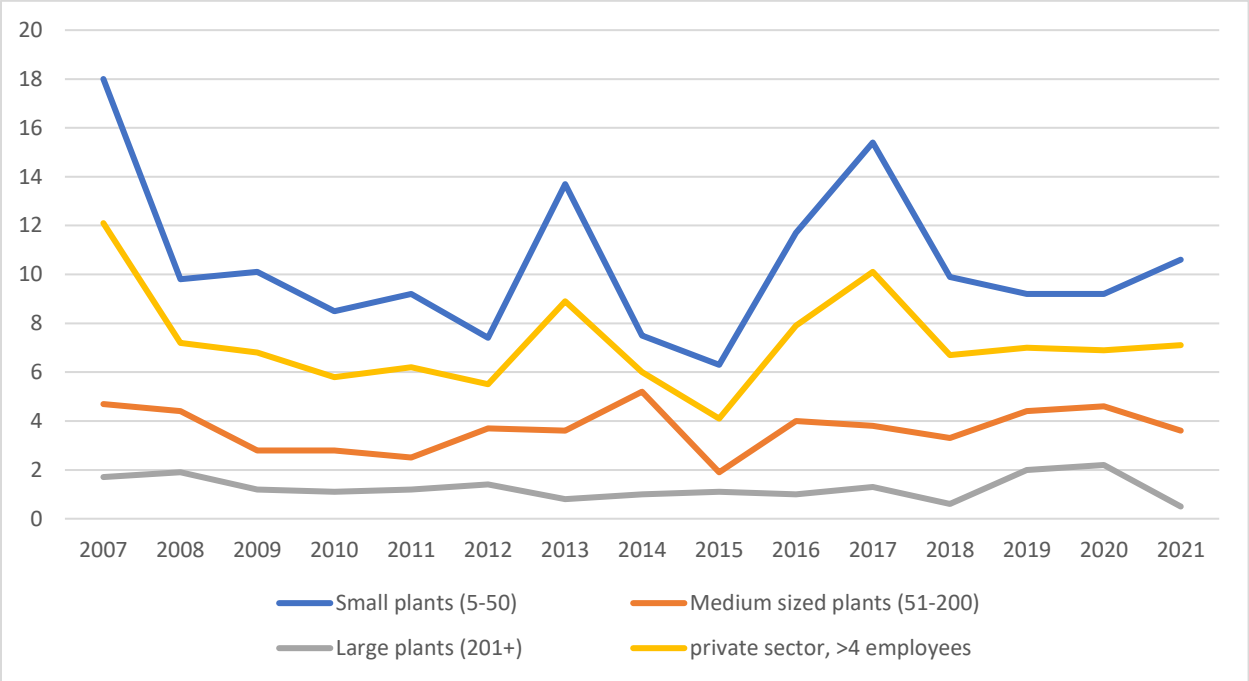


Figure 3: Share of (surviving) plants where a works council ceases to exist in the following year by plant size (in %)



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