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Company bargaining and working time accounts in France and Germany

Abstract

Working time accounts are frequently used by employees in France and Germany to save and spend time. But do they really increase the time autonomy of individuals? Who decides on the design and use of these instruments? These accounts give companies the possibility to synchronize work with the production of goods in order to meet market demands. This means space for compromise and collective bargaining. Our research project aims to describe the negotiation, content and use of these accounts, highlighting important societal differences and addressing the question of time autonomy strengthening.

Keywords: working time accounts, social times, time autonomy, collective bargaining, comparative research.

Négociations d'entreprise et comptes épargne temps en France et en Allemagne

Résumé

Les comptes épargne temps sont fréquemment utilisés par les employés en France et en Allemagne pour économiser et dépenser du temps. Mais augmentent-ils vraiment l'autonomie temporelle des individus ? Qui décide de la conception et de l'utilisation de ces instruments ? Ces comptes donnent aux entreprises la possibilité de synchroniser le travail avec la production de biens afin de répondre aux exigences du marché. Cela signifie un espace pour les compromis et les négociations collectives. Notre projet de recherche vise à décrire la négociation, le contenu et l'utilisation de ces comptes, à souligner les différences sociétales importantes et à aborder la question du renforcement de l'autonomie temporelle.

Mots-clés : compte épargne temps, temps sociaux, autonomie temporelle, négociation collective, recherche comparative.

Company bargaining and working time accounts in France and Germany

Introduction

Flexible working hours are replacing the rigid working hours model that has prevailed for a long time. This trend can be observed throughout Europe (European Commission 2018). In addition to trust-based working time, on-call work and zero-hour contracts, these include above all working time accounts (WTA), meaning saving and the use of working hours. They allow the agreed standard working time to be distributed variably over the week, month, year or even over the entire working life. They offer firms the opportunity to synchronize more precisely the use of labor with volatile demand. Employees can gain leeway to better coordinate professional and private time requirements. Whether and how both goals can be combined is the subject of this paper. How employer and employee representatives shape WTA's rules in the company? How the employees can use them for their needs? Does the comparison between French and German WTA show any differences on a societal level? And, if so, where do the differences come from? We use a mixed method approach combining a qualitative and quantitative research design to address these questions. Our approach considers that the answers depend to a large extent on company bargaining and on the use of time accounts. They set the course for whether employees gain time autonomy compared to rigid working hours or whether the opposite occurs, a higher degree of time control. Following the theory of 'social regulation' (Reynaud 1979; De Terssac 2003), we define time autonomy as the power to manage time. This power is part of a social regulation, in which it meets time control.

Time autonomy is embedded in the regulatory structures of working time accounts in France and Germany.¹ This analysis follows on from research that has been dealing with industrial organization in France and Germany since the 1970s. On the one hand, the objective here is to understand to what extent the WTA is negotiated and applied unequally in the two countries. On the other hand, the aim is to show to what extent a cross-country comparison can provide information on whether the WTA increases or limits employees' autonomy regarding working time. Our inductive and empirically determined orientation follows the tradition and the criticism of the first results of the researchers of the Laboratory of Economics and Sociology of Work (Maurice et al., 1979). The theoretical goal of 'societal analysis' was to achieve inductively a generalization of interdependencies of actors and systems (education, organization, industrial relations) and thus to capture regularities that are independent of

national specifications. This approach has been the subject of many discussions regarding its theoretical and methodological aspects (Labit & Thoemmes 2003). Alternative approaches have been made, for example, with regard to the dominance of industrial relations and the production of social rules (Reynaud, 1979), types of capitalist societies (Hall & Soskice, 2001), or institutional differences in the organization of labor markets (Marsden & Belfield, 2010).

We consider industrial relations above all as multiple social systems, constructed by social rules (Reynaud, 1988). This means that we do not assume a national unity of industrial relations in Germany or France (the plurality of systems), and that we do not have a strong assumption about the regulatory structures of WTA at the firm level. Indeed, we are not aware of any other prior international research project on the negotiation and use of WTA in companies. In a more modest way, we wish to explore the configurations of time autonomy that firm negotiators have put in place for their employees in both countries.

We approach it here both through the written word, i.e., through the agreements concluded between staff representatives and employers, and through interviews with these representatives and the employees using such mechanisms. In order to understand and analyze company accords, we use the concept of social rule. The negotiated rule and its use allow us to structure our analysis of the agreements. The regularities that go beyond the singular case indicate to us the tracks linked to the differences between businesses².

1 Context, literature and methods

1.1 Historical context

To understand the difference between regulations, we first put them in their historical context. In France, flexitime (*horaires variables*) became particularly important in 1982 when working time was reduced from 40 to 39 hours per week (first form of WTA). However, the actual WTA was only introduced by law in 1994. It had two objectives: to allow at least six months of downtime and to allow for new employment in lieu of vacation. The goal of ‘employment through time off’ in the mid-1990s must be seen in the context that lack of recruitment opportunities was a serious problem, but that a general reduction of working time was no longer on the political agenda. However, the occupation targets were not met. The 35-hour work week, which was generalized from 1998 onwards, had positive effects on recruitment on

the one hand. On the other hand, numerous company agreements on WTA were concluded, which made it possible to implement the reduction of working time close to the company.

The 35-hour week in France introduced at the end of the 1990s (Bloch-London 2000) caused organizational problems during its implementation, which were partially offset by savings on the WTA. Many corporations maintained the 39-hour week and made up the difference. This practice is consistent with Germany. After the introduction of an annual work week in France (1607 hours since 2000), the multi-year distribution of working time is now possible. Laws no. 2005-296 (of March 31, 2005, on the reform of the organization of working time in the company), no. 2008-111 (of February 8, 2008, for purchasing power), no. 2016-1088 (of August 8, 2016, on labor, the modernization of social dialogue and the securing of professional career paths) not only allow the distribution of working time over a three-year period through firm agreements. They also allow for time accumulated in the WTA to no longer be evaluated as overtime subject to mark up until the end of this period. Finally, the 2016 law clarifies that settlements concluded before 2008 that didn't follow the legal or conventional framework for setting annual working hours are now officially recognized. This approach shows the central role of company agreements and a decentralization of industrial relations.

In Germany, flextime accounts emerged in the 1960s to equalize the increase in traffic volume that occurs when work begins and ends at the same time. They are the original form of the WTA, which has since spread into many variations (overtime traffic light, annual working time, long-term accounts, etc.) Today, more than 56% of employees in Germany organize their working time using a WTA (Ellguth et al., 2018).

In contrast to France, WTA in Germany is the result of collective bargaining. Their great hour of expansion in Germany was in connection with the conventionally agreed reductions in weekly working hours in the mid-1980s. Collective agreements in the metal industry, which were negotiated as a compromise between shorter and more flexible working hours, delegated the implementation of the reduction of working hours from 40 to 38.5 hours to the company parties, management and works councils. They have left it up to businesses to decide what form the reduction in working time will take, whether it is fixed in small daily portions or saved over several weeks in the form of days off. Many companies have retained the 40-hour week and have introduced the WTA, which saves the difference between the actual (longer) and the agreed (shorter) working time (Seifert 1987).

1.2 Industrial Relations

Workplace representation of interests is in principle very different in the two countries (Artus 2010). In France, the non-elected trade union delegate (depending on the representativeness of the organization to which he or she belongs) in principle claims to negotiate on the side of the employees, but other forms of agreement are possible, for example with the social and economic committee (CSE) representing the employees. The management representative often faces a group of delegates from different unions to negotiate the deals. Sector agreements are important in both countries. In France, according to the latest available data, the majority of workers are covered by a branch collective arrangement (98.5% in 2014; Germany: 56% in 2016). This is thanks to the declarations of general applicability. In Germany, this approach is less pronounced and declining because, unlike in France, the principle of bargaining autonomy gives employers a veto right in these procedures. In addition to the autonomy of collective bargaining, codetermination at the workplace is also a distinctive feature.

The German works council has extensive consultation and co-determination rights. In particular, the approval of overtime and the acceptance of flexibility in the company are resources with which this institution can safeguard the interests of workers. It also matters that the right to strike has been shifted to the regional collective negotiating level. The negotiation of wages and working hours is the prerogative of sectoral policy. In general, these negotiations are conducted by a single union that has a monopoly on representation. The rules of WTA therefore benefit, unlike in France, from a perspective that excludes other factors such as wage increases discussed at the regional bargaining level.

In assessing agreements, it should be noted that company regulations can be based on sectoral collective contracts that provide a framework. In France, priority should be given to the negotiation of firm agreements or the direct application of sectoral collective agreements. The collective agreements for the metal industry (1998) or for civil servants (2002) partly define a framework for business agreements. In Germany, the content of collective agreements varies greatly (Bispinck 2016). There are differences, for example, with regard to upper limits for credits or time debts and balancing periods. In rare cases, they also allow for the payment of credit balances. The collective bargaining framework offers firm actors, management and

interest groups the possibility to negotiate company-specific regulations, which are the subject of our contribution. A distinct link between company negotiations and pre-existing national and sectoral agreements was not established in our research design.

1.3 Distribution of WTA and Literature

In France, there are no statistics on the prevalence of WTA. There is neither precise information on the employees affected by the company agreements nor on the number of accounts actually used. But we do know that more than 75% of large companies in France have integrated the mechanism, providing an access for over 3 million workforces. Since 2002, it has also been possible to open a WTA in the public sector, making it accessible to 5.4 million personnels. With 29.4 million employees in France as a whole³, it can be assumed that at least 29% of them can open a WTA. It is also not possible to estimate the potential spread in medium-sized and smaller companies. Therefore, the present evaluations are subject to the proviso that only the regulatory structures of the company agreements are considered here, without drawing conclusions on their dissemination.⁴

In France, WTA have been little explored. After the introduction of flextime in 1982, Law No. 94-640 of 25 July 1994 on improving staff participation in the company stipulated the establishment of WTA. This non-mandatory system could be implemented in a concrete and binding manner through company agreements. A minimum period of use of six months was provided for in order to encourage new hires to replace employees on leave. However, numerous practical initiatives by companies led to the conception of WTA increasingly adapted to the company's concerns. By the mid-1990s it was already clear that, contrary to the law, companies and staff favored shorter periods of time off. The originally statutory minimum time-out of six months was undermined by company agreements.

This first research on WTA in France showed that out of 58 company agreements analyzed, 29 shortened the time off to less than six months (De Terssac et al., 1998). In addition, a survey of 28 companies (around 200,000 employees) with a sample of 786 users showed: The actual duration of time off was even shorter. Eighty percent use the credits on their WTA for less than a month, often only for a few days. This study showed that the legislature got at least the idea of time autonomy wrong. Companies and WTA users agreed to short leaves of absence, contrary to the legal requirements for sabbaticals. The minimum six-month sabbatical has since disappeared. Law reduced it to two months in 2000 and abolished it in

2005 (Giotto & Thoemmes, 2016, 2017). The use of WTA on a daily basis, as in Germany, is also common in France. The original goal of creating or securing additional employment is no longer a subject of scientific investigation today.

In Germany, there is more data available on WTA (Seifert & Thoemmes, 2020). Almost 60% of employees organize their working time with the help of such an account, and only 2% use a long-term account (Ellguth et al., 2018). Due to the low prevalence and the character of long-term monetized accounts invested in financial markets, these are not included in the following analysis (Gross et al., 2019).

WTA have been the subject of research in Germany since about the mid-1980s, when they were introduced in different variants in the course of collectively agreed reductions in working time (Seifert 1987). The numerous analyses show their frequency overall and differentiated according to company size and economic sectors on the basis of different data sets (BAuA, 2016; Ellguth et al., 2018). They analyzed the determinants of their use (Ellguth and Promberger 2004; Bellmann and Gewiese 2004; Zapf 2016). The prevalence of WTA increases with firm size, with the existence of a works council or staff council, collective bargaining coverage, the proportion of qualified employees and with internal training.

Another focus relates to employees time autonomy compared to a rigid standard working time (Seifert 2001; Promberger *et al.* 2002; Lott 2015; BAuA 2016; Peters *et al.* 2016; Wanger 2017; Zapf and Weber 2017; Gross and Seifert 2017). The results are not unambiguous. On one hand, the use of time credits follows company concerns, but on the other employees can also realize their time wishes. The reasons for the different findings remain unclear. There is, however, a broad consensus on the employment-securing function of time accounts in the financial crisis of 2008/2009 (Herzog-Stein and Seifert 2010; Zapf and Herzog-Stein 2011; Bellmann *et al.* 2013).

1.4 Quantitative and Qualitative Data

We chose a hybrid method that utilizes in-depth interviews, case studies and quantitative analysis of company agreements. The comparative quantitative-descriptive analysis of German and French company deals on WTA uses two independent data sets. The data basis for Germany is 587 company accords on WTA from the years 1994 to 2015, which are available from the archives of the Hans Böckler Foundation. The collection of company and service agreements at the Hans Böckler Foundation is not a representative database, but it is

unique in Germany. The contracts are made available on a voluntary basis by codetermination bodies and systematically stored in the non-public archive of company agreements. The WTA company accords archived were entirely included in the evaluation in order to obtain a comparable basis to French data.

For France, the data analysis is based on the services of the Ministry of Labour, which centrally archives systematically concluded agreements. In order to gain access to the company agreements, the services of the regional office for work (DIRECCTE) were involved. Their task is to centralize and validate the agreements. For the present research project, long-term access was granted to the digital database containing all accords signed in the national territory since 2006 to the end of 2013. Company agreements signed before 2006 are only sporadically accessible for research purposes. The database contained 390,982 company deals in the survey period. In order to obtain a selection of 1,000 company arrangements since 2006, a method was developed that identified WTA as a sub-item to the keyword 'working time' combined with geographical distribution. Eight hundred and ninety-four of these agreements contained usable information on working time accounts and constitute the present study material.

The samples include differences in arrangement signing periods and economic sectors: primary, secondary and tertiary. The agreements signed in France focus on the period 2006 to 2013, when there was already a legal obligation to hold digital archives. In contrast, the German agreements are spread over the longer period from 1994 to 2015, as the entire existing inventory had to be included in order to obtain roughly comparable data holdings. This is because, unlike in France, there is no legal obligation in Germany to document company arrangements with labor inspectors or other bodies.

A coding grid adapted to the German and French agreements was then created. This makes it possible to transcribe all the information contained in the texts in binary form (code: presence or absence of the respective modality). Essential variables refer to general information about the arrangements: the goals, the limits for time debts or credits, compensation periods, framework times and finally elements such as leave, overtime, etc. or pay that can be saved or used.

The second part of the present research project consisted in analyzing the use of WTA by employees according to local negotiations in eight selected companies (four in France, four in Germany). In each firm, the content of the company agreements was analyzed; semi-directive

interviews (with an average duration of 90 minutes) were conducted with the workers (ten for each firm, including 2 union – and employer representatives, 80 interviews in total). Each interview was recorded, transcribed and analyzed. A thematic analysis was proposed for all interviews. With the collection of complementary documents for each business (monographic analysis), their specificities were reported through case studies. As far as possible, firms in comparable areas were selected in both countries, which are shown in the following overview based on the sector designations of the Hans Böckler Foundation’s archives (Table 1).

All case study companies are labeled from A to H. In each company, one works council member, one member of the human resources department and eight operatives (= account users) were interviewed. For reasons of anonymity, neither the functions/positions of the employees nor the associated companies are presented in more detail. For all the following interview excerpts, only the sector affiliation (A to H) and the order of the interviews conducted (1 to 10) are shown, e.g. A1.

Table 1: Overview of the companies and sectors of the selected case study

Germany	France
<p>A. Sewage and waste disposal, Waste disposal, recycling</p> <p>It is a municipal enterprise (public law institution) of a medium-sized city with about 1,600 employees, of which 1,100 are in the commercial sector. The tasks include waste disposal, city cleaning, city drainage, planning and maintenance of playgrounds, operation of the municipal cemeteries and the crematorium, maintenance of green spaces, urban infrastructure such as roads.</p> <p>There are three types of WTA in the company: Short-term account, long-term account and lifetime working time account.</p>	<p>G. Sewage and waste disposal, Waste disposal, recycling</p> <p>The public enterprise employs 1,100 permanent staff. Its competences, acquired through the state decentralization plans, include waste management and sanitation, street cleaning, urban policy, maintenance of green areas, economic development, social action, early childhood education or the management of cultural, sports and recreational facilities.</p> <p>The WTA only works with time saving. It is impossible to use money. It can be supplemented by annual leave from the fifth week, working time reduction days and compensatory rest. It is limited to 60 days, but cannot be used before reaching a minimum threshold of 20 days, except in exceptional cases (transfer, retirement, birth, adoption, etc.).</p>
<p>C. Banking</p> <p>It is a major bank with about 800 branches and more than 11 million private and corporate clients in Germany and over 70,000 corporate clients worldwide. The bank has about 49,000 employees worldwide. The site visited in the project employs more than 2,000 people.</p> <p>The working time account thus introduced is a traffic light account. Three phases (green, red, yellow) define maximum limits for the volumes of the accounts (40, 50, 60 hours).</p>	<p>F. Banking</p> <p>The service sector operation is a regional branch of a large French banking and insurance institution. The operation employs around 1,650 people, distributed between the head office and the 154 'contact points' set up in the region (including 138 local agencies).</p> <p>The working time account was decided in 1997 and renegotiated in December 2016 with two objectives: advantages in the taxation of income and early retirement to reduce corresponding wage costs.</p>
<p>D. Vehicle manufacturer Other vehicles</p> <p>The company is a European vehicle manufacturer founded in the 1960s as a consortium of the main European players in the sector. The producer employs more than 65,000 people at around 20 sites. The site visited and three other sites in Germany are affected by the in-house collective agreement under investigation.</p> <p>In this complex four-account system, time is regularly shifted from short-term to long-term accounts. While the working time account (flexitime account) and the flexible value account (sabbatical) are short and mid-term accounts the long-term accounts (security account, lifetime work account) are there to absorb more hours.</p>	<p>E. Vehicle manufacturer Other vehicles</p> <p>The site visited in France is based on a framework agreement signed in 2005 consisting of an account with three sub-accounts: 1) annual leave account limited to 30 days 2) 'other rights' account, which is also limited to 30 days but can be funded by a combination of diverse time elements 3) 'End of Career Account' which can be replenished with the same items as the Other Rights Account and provides for an employer contribution of up to 30% of the amounts saved.</p>
<p>B. Metalworking</p> <p>The company, which employs about 600 people, is active in the metalworking industry. The product range is broad and includes high-quality bathroom fittings, entrance mats for offices and commercial buildings, and electric scooters.</p> <p>The working time account provides for relatively low limits. They are plus/minus 50 hours for production-related employees and plus/minus 20 hours for other employees. Compensatory time off is provided within one year. Time off in lieu is possible in whole/half days.</p>	<p>H. Health and social affairs</p> <p>The University Hospital Centre consists of 16 hospitals and university institutes spread over four locations (excluding logistics facilities). The company employs 15,700 people, including 3,900 doctors and 11,600 hospital workers.</p> <p>The old working time account until 2013 has been limited in its volume to 208 days since 2016. It can now only be used in a lump-sum payment depending on the staff member's income categories. The new working time is open to all employees and mandatory for doctors with hospital status.</p>

2 The comparative analysis of working time accounts

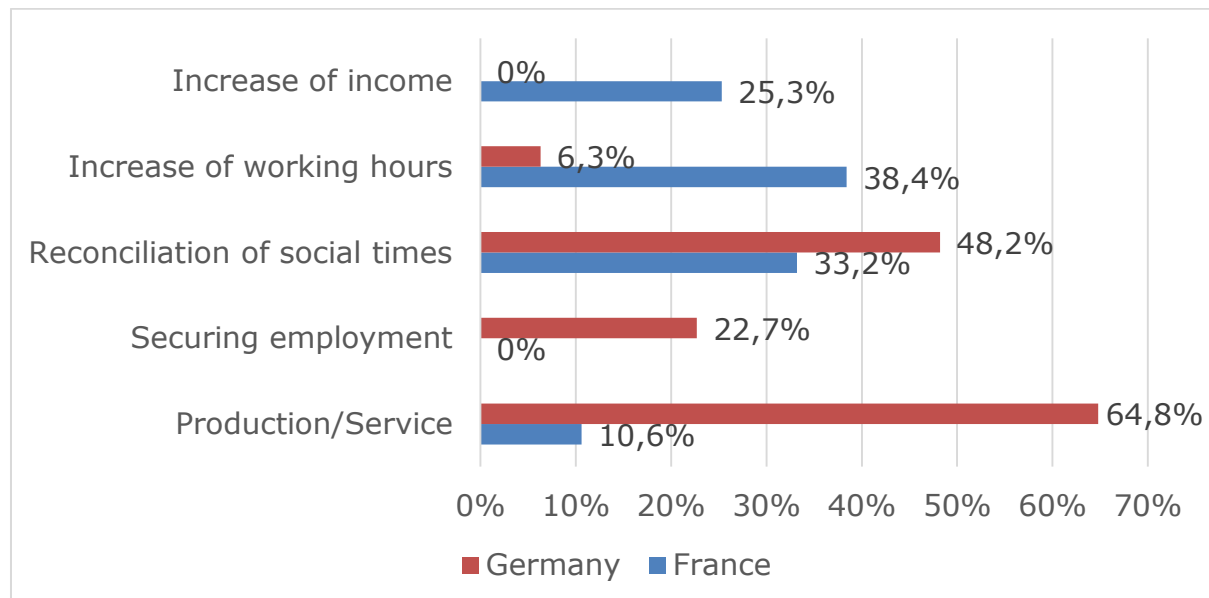
The concept of the social rule (Reynaud 1989) makes it possible to break down the arrangement's content, delimit areas, describe objectives and finally propose an overall interpretation. Schematically, 1) the general rules of agreements can be distinguished from 2) the rules concerning the saving and use of time on these accounts (leave/money).

2.1 Major differences between France and Germany

2.1.1 General regulations: goals, staff exclusions and account opening

The general elements include, foremost, the objectives of the agreement. They are formulated in the preambles, which vary in the degree of detail. Their length can range from a few paragraphs to several pages at the beginning of the text. In the codification, the objectives mentioned in the preambles were bundled into five complexes: 1) improving production and service (market requirements), 2) securing employment, 3) reconciling social time and time autonomy, 4) increasing working time, 5) increasing income. These general objectives are described in detail in the central part of the agreements. The latter list several objectives next to each other, but with different frequencies.

Figure 1: Main Objectives of the Company Agreements



Source: own representation; data basis: archive of the French Ministry of Labour and archive of the Hans Böckler Foundation

First, let us look at the two most frequently mentioned goals for each country. For Germany, the improvement of production and services, the progress of time autonomy and the reconciliation of social times are mentioned. The goal of ‘reconciliation of social times’ includes times dedicated to different areas of life. The related subthemes for Germany are family and work, autonomy of working time and care time. In France, the term articulation of social times is preferred to the term time autonomy. As all of these items are considered of importance for dealing with social times by our interviewees, the objective of time autonomy would therefore be located inside this category. In France, the extension of working time (without a more precise definition) and the reconciliation of social time are at the top of the list. Obviously, in Germany it is more about providing greater flexibility for the company, in France it is about a possible extension of working time. It is known from other analyses that the extension of working time in France is made possible by monetizing time off and by saving up statutory leave or compensatory rest periods for longer terms (Giotto & Thoemmes, 2017). In Germany, the goal of securing employment also plays a role, unlike what is known France. WTA took on this function during the economic crisis of 2008/2009. Time credits were released and time debts were booked so that redundancies could be avoided (Herzog-Stein and Seifert 2010; Zapf and Herzog-Stein 2011). Employment targets are not included in the French agreements. Although the possibility is not ruled out, to our knowledge, no study has documented the positive employment effects of the French WTA in crisis or current situations. On another note, more than a quarter of the French agreements state the payment of saved time in money as a central goal. Conversely, the monetization of saved time occurs very rarely in the German arrangements. The safeguarding of employment in the German company agreements contrasts with the increase in income for French workers. In this respect, these goals differ fundamentally. On both sides of the Rhine, the reconciliation of employees’ social times and the increase of time autonomy are important common goals. It is striking that a clear majority of the German accords mention the term time sovereignty or autonomy as a goal (Gross and Seifert 2017), while it hardly appears in the French regulations.

Another aspect of the general regulations concerns the scope of WTA. The French agreements most often exclude workers who do not have a minimum period of employment (at least one or two years). This is the case in 50.7% of the agreements. In Germany it is more likely to be status or occupational characteristics. This applies to 46.7% of the agreements. They primarily concern executive employees, non-tariff employees and trainees. The first two

groups are often subject to trust-based working hours, for which WTA are out of the question. Notwithstanding these differences, in France (22.7%) and Germany (37.4%) part of the arrangements require a permanent employment contract in order to have a WTA. Exclusion of staff on grounds of age is rare in both countries.

Finally, the general rules include the initiative to open accounts. The French agreements put more than 99% of it under the responsibility of the personnels. They have the choice whether or not to open an account. An equally high percentage (over 94%) of German arrangements provide for automatic opening of the account as soon as the employee enters the scope of the company agreement, so employees have no choice. In France, the opening of WTA is linked to a personal initiative guaranteed by law. A company agreement is necessary, but it must respect the individual right of employees (this principle is also used to regulate long-term accounts or credit balances in Germany). The German WTA models, in contrast to the French ones, do not give employees any time autonomy in this respect. This general difference is also reflected in the initiative to open accounts and with the recording of the times. In France they are largely based on a self-initiative or recording (79.1%); in Germany the recording is mostly automated via technical means (72.6%).

2.1.2 Time Saving and Time-Use Regulations

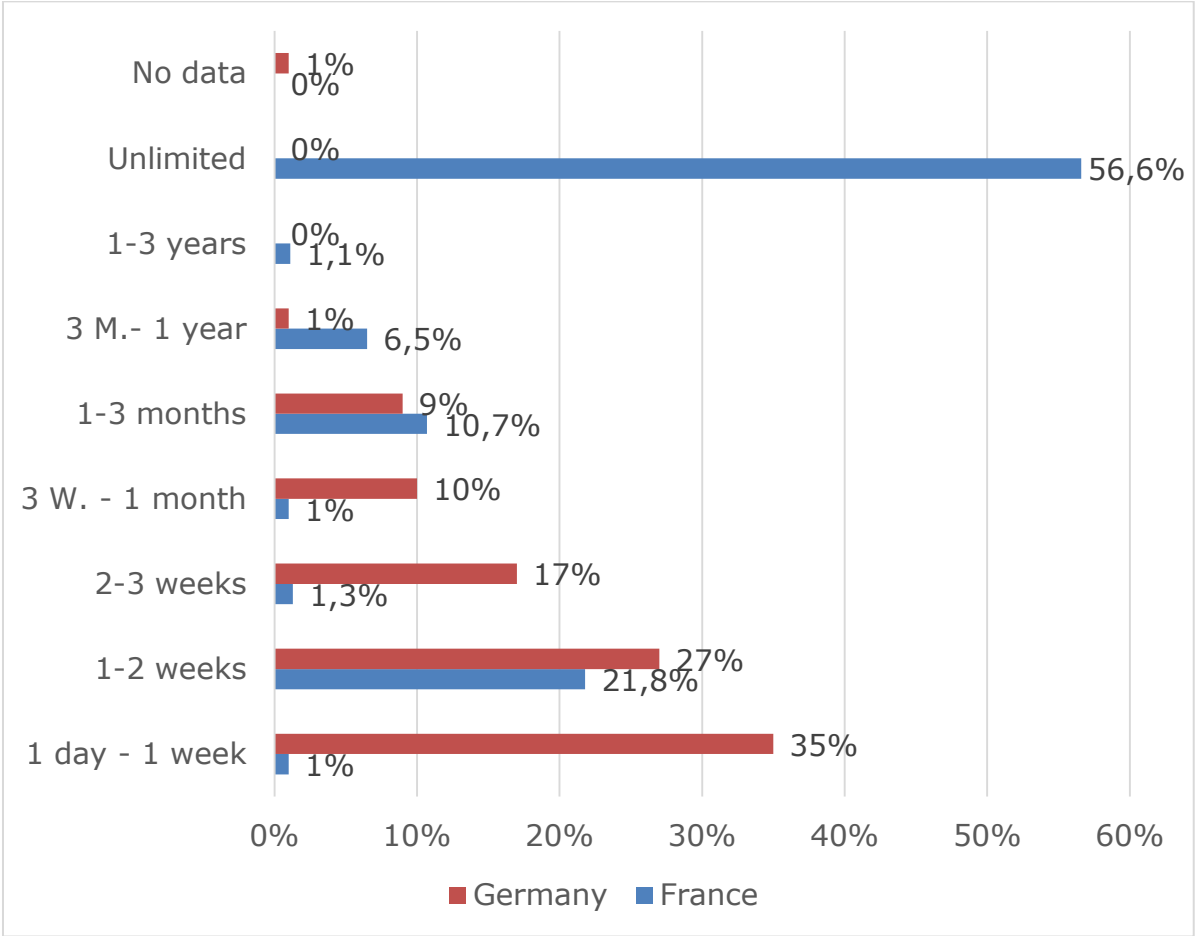
The French contracts list all tenses that can be saved in the accounts. The German agreements largely dispense with this. In France, the following can be accrued: Annual leave, reduction of working time, compensatory rest, service time, holidays, overtime, flextime, etc. For the German agreements these mentions are missing. In Germany, in most cases, additional working hours are automatically booked to the WTA. In France, in eight out of ten cases, the transfer by self-recording is at the initiative of the employee. In the case of overtime work subject to surcharges, different regulations then apply which make it possible to book hours and/or premiums to the account or to pay them out. In France, it is again left to the employee (with or without supervisor control) to decide whether the hours should be recorded on the WTA.

German agreements set the maximum amount of time credits and debts. They also regulate procedures in case the limits are exceeded. The emblematic, though not the majority, figure of this type of arrangement is the traffic light account, *Ampelkonto*. 24.4% of WTA in the German company agreements studied are traffic light accounts (Gross and Seifert 2017). Three phases (green, yellow, red) precisely define the limits of permissible credits or debts.

For the green phase (40 hours), movements are allowed without restriction. If these amounts are exceeded, the account enters the yellow phase. It means an observation phase in which employers and employees are encouraged to return to the green phase. The yellow phase provides for discussions to reduce the accumulation of time. The final stage is the red phase. It marks when the defined maximum is exceeded. It provides for more coercive measures against the employer or the employee. The works council can be informed and retains its right of codetermination. This example shows: French agreements specify what is saved, while German contracts focus on ensuring that accounts are not misused to increase working time.

On average, German company agreements limit the maximum credit to a good 100 hours. More than half (62%) limits the volume of savings to a maximum of two weeks. In contrast, French firm agreements open the doors to savings wide. Only a quarter set the upper limit at one month's work. Most allow unlimited credits (56.6%), which allows several years of working time to be credited.

Figure 2: Maximum Savings Volumes



Source: own representation; data basis: archive of the French Ministry of Labour and archive of the Hans Böckler Foundation⁵.

In France, in contrast to Germany, it is also possible to record monetary amounts (in 28.4% of the agreements examined). In Germany, on the other hand, it is possible to create time debts. In this case, the employee owes his employer for working time that has already been paid but not yet worked. He can, for example, take days off and work this time later to balance the account.

In summary, the following differences can be noted. In France, the savings rules are defined in detail on the type of time forms and also include monetary elements. In Germany, the rules focus on the limits of account management and the procedures for doing so. The French agreements control certain time savings and encourage time accumulation. The German arrangements focus on the control of working time.

The regulations on the use and saving of time are also very different in the two countries. They contain information on the types of time (in France) and on the volumes (in Germany). More precisely comparable are the restrictions associated with time withdrawal: Can employees decide autonomously about free time? Or does the company decide for the employees? The results are relatively similar. About nine out of ten contracts in both countries provide that employees can decide themselves on the use of time off unless major firm reservations. In 13% of cases in Germany, the use of time off depends on the approval of superiors or is limited to certain periods (8%). In France, these regulations do not play a role. The difference between the two countries lies more in the regulation's detail. In Germany, time withdrawal follows a general procedure in nine out of ten agreements, regardless of the type of time used. Conversely, the French processes are specific to each type of time withdrawal. A clear difference can be seen in the possibility of converting time credits into money. Thus 76.6% of French deals also allow the accumulated time credits to be paid out, while only 11.8% of German agreements allow this. Time and money are less convertible in Germany than in France. The autonomy of employees to dispose of their time in the accounts is therefore not a significant differentiator in the France-Germany comparison.

2.2 The Results of the Company Case Studies: a mixed methods perspective

This section focuses on the additional and alternative case study perspective (Table 1). We attempt to answer the question of the extent to which the qualitative research corrects for the

net results and national types of WTA. What new outlooks emerge from the firms visited? The multi-purpose account in France and the small short-term accounts in Germany leave some room for employee autonomy. Nevertheless, the practice observed in the companies shows that general statements on time autonomy are not able to reflect the diversity of conditions and results of implementation in the companies. Even within a company, the possibilities for time autonomy vary according to work areas. Based on the available results, economic sector membership appears to be less of a determinant of the extent to which employees are able to exploit the potential scope of time accounts. The type of work, the organization of work processes and the attitude of supervisors seem to be much more significant. As long as there are no strict work organization guidelines (e.g. assembly line production, shift work) that restrict independent time use, companies have a mix of task-driven and self-determined time control. Another central finding is that the leeway for time autonomy promised in firm regulations is ultimately only a necessary, but not sufficient, condition for employees to organize their working time to a degree of self-determination. Ultimately, it is the implementation at the workplace that is decisive. It is the day-to-day negotiation process that determines where and to what extent company regulations can be confirmed. Time autonomy is therefore always a question of decentralized implementation.

2.2.1 Company Agreements in the Face of Societal Profile Trends

The case studies make it clear that only a consideration of the economic situation of the companies, the order situation, the employment, the production range, the work processes allows an assessment of the time autonomy gained through WTA. Therefore, individual cases differ from the overall societal patterns presented here (Giotto et al., 2021).

A first example of bucking the trend is that of municipal waste disposal companies in both countries (A and G): a relatively limited WTA in France and the existence of short- and long-term accounts in Germany. Firm G's working time account is one of the simplest encountered in France: 20-day minimum savings, 60 days maximum. Cash payments for employees are not possible. However, the working time account is very popular in terms of time and autonomy. Employees can use their time as they wish, largely independent of superiors and predefined projects. This free use includes short- and long-term leave. The WTA of German firm A offers a complex solution against the stereotype of limited short-term accounts. Due to

the great heterogeneity of requirements and work processes in the different areas of the company, the degree of time autonomy also differs. Short-term accounts offer - always taking into account the requirements of the job and the coordination with other colleagues - room for small-time freedoms. Long-term and lifetime work time accounts are seen as beneficial for greater freedoms with different goals and an early exit from working life.

A second example of bucking the trend concerns the same vehicle manufacturing company in France and Germany. The account structures here are relatively similar, both are comparatively complete with three and four account types respectively. The Franco-German comparison reveals similarities here and allows us to formulate a general hypothesis on time autonomy for both countries. Complex account systems with three or more types of accounts have the effect of shifting the demands for time autonomy from short-term to long-term accounts and time horizons. This shift to the long run initially serves firms. However, it must also be taken into account that some employees wish to manage their careers using these instruments. In this respect, time autonomy extends to the entire working life. Works councils are constantly challenged here to balance the desires for partial autonomy: low or high volumes, short-term or long-term accounts. This example may illustrate a company effect of WTA on a binational level.

2.2.2 Specific Situations Create Different Agreements in Both Countries

Two other sectors, banking and health, present specific situations linked to the country. In France, it is in general up to the employees whether they open a WTA or not. The exception is hospital doctors, who have a compulsory WTA. For nurses it is free to decide, but here the WTA has become a 'secondary' and does not help time autonomy in a tight employment level context. One employee reports: 'Honestly, they don't talk about it, maybe it would be better if it was better known, but we don't talk about it' (H1). 'I opened it then when I was making plans. I worked weekends for several weeks, not every weekend, but at least twice a month, and there were these recovery hours that I really couldn't take and so I put them in the working-time account (H2). For the nurses interviewed, the WTA is "just another tool" for the hospital. They feel they are being "cheated" in organizing their holiday time. 'We don't know if we will have Christmas or New Year, we know it ten days ahead. It's the same for the summer holidays, you can never plan anything in advance. Until you know, the tickets cost a

fortune [...]. If I make a substitution, it's not to put it in the working-time account, what's the point? '(H3).

The banking sector may also compare a French and a German company directly. The German bank illustrates the traditional small and short-time orientation of the WTA. It is tightly limited to a range of 40 hours of time savings. The French bank's WTA improves short-term time autonomy only for the part-time employment. Other solutions for short time autonomy are provided by working-time arrangements for a short working week (4 and half days). In the long term, employees benefit from advantageous early retirement rules of the working time account. Otherwise, they can 'buy' time, but only use it for very short periods of time or for planning the end of their career.

In the German bank, the WTA is an instrument that allows working time autonomy over short periods. The organization of working time with part-time can also be adjusted if desired. There are isolated requests for a higher time balance, a new arrangement from monthly to annual accounts, block time off and a longer time off, a lifetime WTA and mobile working. High commuting times and sometimes tight staffing levels are mentioned as complicating the exercise of time autonomy in the case of part-time work.

The first point of experience concerns the increase of the possible savings volume. The wishes are also aimed at using extended time off, as the following interviewees explain.

'So I think it should go more in the direction of 50, maybe even 80 hours, so 2 weeks would be good, but then you also have the possibility to take them at some point' (C3).

'I think that I would find it nicer if the limits were not set so tightly, so not this traffic light system, but that you really build up an hour now and then maybe stay at home for 2, 3, 4 weeks at a stretch or extend your normal annual leave by this time' (C10).

'Yes, if you are with a company for a long time, of course, it would be much better if you work a lot, because there is a lot of work to do, that you can actually take it at the block as it suits you and your recreation or your need' (C2).

For the works council, this wish is subject to the proviso that a corresponding agreement contains control mechanisms in order to be able to return the additional volumes on the WTA: 'Higher savings credit, more flexibility, perhaps the two main points. Of course, we have to make sure that we can implement this through control or support' (C8).

High commuting times also explain the desire for time off per day in relation to shorter working days. In this context, employees also expressed their wishes for working time with regard to mobile working: 'I sit in the car for about one and a half hours a day, which [should be] deducted, that's my free time, that's not working time, the one and a half hour, and if I could work from home twice a week, I'd like that' (C5).

In general, time autonomy is always subject to the proviso that essential operational concerns are met. This is especially the case in bank branches, where minimum staffing levels are unavoidable. The employees certainly see this restriction of time autonomy: 'The tighter the staffing, the less flexible you are, if you work in a two-man branch and both are there, you can't say, I'll leave early today' (C7).

The French bank shows a WTA that is just the opposite: an account with larger volumes and mainly designed for early retirement. In 2019, 482 (29.2%) of the 1,650 employees in the company had an 'active' WTA. A total of 28,441 days were saved in these accounts, which is an average of almost three months per account (51 days, more than 400 hours). The WTA serves to manage the age pyramid in order to reduce corresponding wage costs. As one employee summarizes, the WTA is organized as an end-of-career project and for personnel costs. 'It became a retirement tool. In the beginning it was sold more as a life project. It was: you save days to be able to develop a project in your life' (F2).

Against this background, the social partners have negotiated a tripling of the pension settlement in the event of termination before the end of December 2020. It can be saved in the WTA to achieve the necessary conditions for an early exit. In doing so, workers can use the bonus to buy time to leave several months or even years before the statutory exit date without losing their pension benefits, as the HR department puts it. « The severance package – they do it in time, they put it in the working-time account so they can leave early » (F1).

Since time autonomy can only be clarified by analyzing the practices of employees, the results are also heterogeneous. They contradict a simple scheme that assumes that long-term-oriented accounts automatically have a higher potential for time autonomy – also because this does not say anything about the power of disposal over the accounts. Although a further opening of the accounts in Germany to this effect is also partly mentioned by personnels, it is by no means clear that it then also serves the employees' power of disposal (and not unpaid overtime). This was raised by some works councils. Across cases, there is a desire for the possibility to take several consecutive days out of the WTA in a way as self-determined as

possible. This is not always guaranteed and would be an important step to promote time autonomy.

2.3 Discussion: Time Autonomy in Comparison

The comparison described above based on company agreements revealed some key differences in the regulatory structures of WTA in Germany and France. How can these differences be explained? What reasons led the negotiating parties to regulate WTA according to different principles and patterns? What aspects speak for the French side to put long-term time-saving objectives in the foreground? Why are short-term, production-oriented goals in the foreground in Germany?

It can be assumed that each side pursues specific interests. The differences result from compromises that correspond to different interests and conceptions of WTA (Reynaud 1988). Different factors are discussed that could explain the differences: the origin of the agreements, company and economic contexts and elements of industrial relations.

2.3.1 Historic Context

We have shown in the first part of the paper that the origin of the WTA in both countries is different: legal provisions in France and company bargaining in Germany. But there is a common movement to company agreements in both countries. This general tendency leaves other forms of regulations (national, sectoral) in the background. In France, the law has been constantly rewritten to take account of company experiences. Decentralized bargaining is key in both countries to the understanding of the promotion of WTA. We have mentioned the importance of working-time reduction in France and in Germany for the important distribution of WTA. Indeed, WTA ensure a possible continuum of working time organization with the 35-hour week in France and in the German metalworking sector. The difference to the former 39- or 40-hour week may be accumulated in those accounts without changing the weekly allocation of time. This is probably also a common reason why WTA seem to be a popular tool in both countries. But concerning the origin of the striking differences no path dependency seems to be related to the history of WTA.

2.3.2 Economic Context: Employment, Markets, Time Accumulation

It can be assumed that the observed difference in the agreements on WTA also relates to the economic life, which does not seem to be identical on both sides of the Rhine. WTA in

Germany can be seen as a time control instrument that serves to adapt working time to demand requirements, but also to secure employees a certain scope for time autonomy. Flexibility for companies and for employees describe an exchange process that WTA are supposed to facilitate. The industrial companies in the current sample, especially in the German case, show, on the one hand, operational concerns and a rationalization pressure based on time savings. On the other hand, WTA offer employees free time ‘à la carte’, which increases time autonomy. The accounts operate in this tension. The possibility of reacting to economic crises (such as that of 2008/2009) by reducing time credits and time debt, or to full employment situations in certain regions through time credits, points to the fact that companies need short-term economic buffers in order to react quickly and cost effectively to different labor needs through internal flexibility. Businesses in Germany are heavily dependent on the industry, its exports and international trade. They are more vulnerable to external shocks than the French economy. The trade-off between variable production and temporal autonomy thus seems to be based on internal adjustment to changing product demand.

In France, occupation aspects play only a subordinate role in the regulation of WTA. It is true that the introduction of the 35-hour week was an external restriction for firms; but today, WTA are no longer designed for employment objectives, as the evaluation of the preambles has also shown (Figure 4). As far as is known, the creation of temporal debts is not used in France to cushion crises as it is in Germany, and is not currently under discussion. Negative account balances must be settled at the end of the year. The employee does not owe the employer any time and is not responsible for cyclical risks with time debts. Therefore, the capping periods are also rather unknown. Indeed, the working time cannot be made available to the employer without remuneration.

In the recruitment context, it is also worth mentioning that the accumulation of large time credits probably plays a negative role in reducing unemployment in France. The additional labor needs are not covered by hiring, but by extending the working hours through the WTA of those already employed (Giotto & Thoemmes, 2017). The accounts also offer French firms solutions to specific problems. For example, the notoriously long working hours of executives and the buildup of their time credits over a very long period allow companies to reward work commitment with WTA. The high social contributions for work in France also favor this trend of time accumulation by those already employed. Recent developments (2018) on the tax exemption of overtime in the company go in the same direction of time buildup.

2.3.3 Industrial Relations

Finally, it is important to look at WTA from an industrial relations perspective. As mentioned, the legislator in France played a more active role in the agreements. It enacted the WTA Act, started to reduce working time to 35 hours and, for example, intervened in collective bargaining autonomy by extending existing collective arrangements to most companies in France (declarations of general applicability). On the other hand, since the Auroux laws of 1982 and the resulting reduction of working time from 40 to 39 hours per week, the legislative initiative has mainly sought to promote bargaining in companies and decentralization (Thoemmes, 2013). It is therefore not surprising that the legislator linked the introduction of WTA in 1994 to the existence of a corresponding company agreement. French unions or labor institutions are able to conclude those agreements provided they are representative. WTA are negotiated in the same way than income or working-time issues. In Germany there is a different route for these issues. This point is essential for the understanding of the French and German profiles of WTA.

The division of policy between the German works council that has extensive rights in terms of consultation and co-determination and the union on the regional collective bargaining level is important. Wage and hour bargaining is the prerogative of sectoral politics. The company does not interfere in these negotiations. In this situation, the works council strives to ensure the smooth running of the company for the workers, but without influencing the collectively agreed length of working time and without giving up its right to authorize overtime. That is the main reason why the German WTA seem so limited. The works council does not want to open the limits in order to continue a strict control of working time, that is negotiated on the regional level. Otherwise, conflicts between works councils and trade unions can also arise on this issue. In this sense, traffic light accounts are the German 'ideal form' of short-term and limited WTA.

Industrial relations and the interests of their actors thus reveal general differences between law, collective agreement and company agreement. They define differences between the long term and the short term of WTA, the separation/union of time and money, the representation of individual and collective interests, the question of debt and the limits of saving, the question of unemployment and employment, the reduction and extension of working time.

Conclusions

The French WTA is similar to a savings account. It is an individual account that the potential holder has the choice to open. These accounts allow for time savings with large volumes and long maturities. At the same time, they encourage longer daily/weekly working hours, but short-term leave or additional income is also possible. The main rules concern the ways in which time is saved and consumed. Accounts are regularly topped up with time or money, including days that would otherwise benefit the reduction of working hours or annual leave.

German WTA are more like current accounts. They are mandatory for employees as soon as a company or departmental agreement is concluded. Opening is automatic for personnels. The purpose of the account is to serve production, employment and the reconciliation of social time and time autonomy. The accounts are almost exclusively reserved for saving and consuming time. Transfers between time and money are rare. Accounts are generally short-term and allow for comparatively low savings volumes. They are intended to allow for fluctuations in daily or weekly work time. The terms traffic light phase and upper limit have great significance. They also allow employees to borrow time (overdraft) and thus have free time before working for the company. Most rules serve to regulate the value of debts and time credits. The 'current accounts' are rarely insured against insolvency⁶ and are not transferable between companies. Credit balances are not remunerated; conversely, interest is not due on time debts.

Our mixed approach nuances those clear national profiles of the quantitative approach. In addition to the national profiles, the qualitative study shows that the organization of work processes and the attitude of superiors are far more important than the company, the industry or even the national legislation. As long as there are no strict work organization guidelines limiting the independent use of time, companies have a mixture of task-driven and self-determined time control. The case studies also show the possibility of a company 'going against the grain' in the same sector with complex accounts in Germany and simple arrangements in France. Furthermore, two different sites of the same multinational vehicle company produce a similar account structure. This indicates the prospect of a company effect in both countries. Nevertheless, we did not test for firm size bias. We know that the distribution and complexity of WTA increase with firm size, but further research should assess the effect of the firm on outcomes by specifically controlling for size in France and Germany. It is also interesting to note that our case studies do not indicate a cross-sectoral or industry effect on outcomes. The two banking WTAs are completely different: a very limited account in Germany, and a tailor-made solution for tax gains and retirement in France. The

company's situation prevails. The same situation applies to municipal services. Here again, the differences stem from the organizational structure of the businesses and from firm bargaining. In summary, the decentralized implementation of the WTA and the organizational structure are the main corrective to the national profiles.

We have addressed three points to explain the distinctions in country profiles: the initial and historical rule of the WTA, the economic context, and industrial relations. The differences relate to the last two points. In Germany, the economic needs of WTA are more closely linked to the production process, and the participation rights of the works council are key to understanding why the accounts are limited in time and volume. In France, the extension of working time within the framework of the 35-hour week is one of the reasons for the volume of the accounts. As far as time autonomy is concerned, both countries give staff more latitude in managing their social time. In France, the individual right to open or not open accounts is a safeguard against a systematic preference for the needs of the company. In total and in theory, French accounts offer more possibilities to the worker (days/weeks off, money, early retirement), but in practice this depends on the actual situation of the workplace, the hierarchy and the possibility to negotiate the employee's time needs. In Germany, the works council has extensive rights to control overtime and WTA. They are a guarantee against the accumulation of time on the accounts, protecting both the company's employment and the employees' health.

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¹ There are pragmatic reasons for the selection of the two countries, as company agreements are available for evaluation, which is not known for other countries.

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³ Tableaux de l'Economie française, Edition 2019, of the National Institutes for Statistics and Economic Studies (INSEE), <https://www.insee.fr/fr/statistiques/3676623?sommaire=3696937> [16.12.2020].

⁴ Indirect indications of the spread of WTA are provided by the 3rd company survey of the European Foundation for the Improvement of Working and Living Conditions (2013). The survey asked about the possibility of accumulating overtime for days off. This exists for just under 78% of employees in Germany and just under 58% in France (European Company Survey/Eurofound 2019, <https://www.eurofound.europa.eu/data/european-company-survey> [16.12.2020]).

⁵ In order to present illustrative and comparable figures with different sector and country specifications, the working day was here valued at 8 hours (weekly working time: 40 hours).

⁶ The short-term nature and the comparatively low savings possibilities probably explain the lack of insolvency protection.