

REPORT

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RENEWING LABOUR RELATIONS IN THE GERMAN MEAT INDUSTRY

An end to 'organised irresponsibility'?

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OVERVIEW

Over the course of 2020, repeated outbreaks of COVID-19 in a number of large German meat processing plants led to renewed public concern about the longstanding labour abuses in this industry. New legislation providing for enhanced inspection on health and safety, together with a ban on contract work and limitations on the use of temporary

agency employees, holds out the prospect of a profound change in employment practices and labour relations in the meat industry. Changes in the law are not sufficient, on their own, to ensure decent working conditions, however. There is also a need to re-establish the previously high level of collective bargaining coverage in the industry, underpinned by an industry-wide collective agreement extended by law to cover the entire sector.

Collective bargaining coverage in the meat industry in selected European countries

Country	Collective agreements
Belgium	National branch-level collective agreement for entire food industry with specific provisions for slaughterhouses and meat processing: the agreement has been extended by law to cover all employments.
Denmark	National collective agreement for the meat industry
France	National collective agreement for the meat industry (extended) National collective agreement for slaughterhouses (extended)
Netherlands	National collective agreement for the meat industry (extended)
Germany	Company-level agreements: no industry-level agreement and most establishments are not covered by collective agreement.

Source: WSI Collective Bargaining Archive (September 2020).

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1 INTRODUCTION

Outbreaks of COVID-19 in some large German meat factories in 2020 raised fresh public concern about the precarious circumstances of workers in this industry, both in terms of their employment status, working conditions and the type of accommodation made available (Birke, 2021). The central issue is that rather than being recruited onto conventional contracts of employment, many workers in the industry do not have a direct relationship with the meat producing firms. Rather, they are hired by sub-contractors that have concluded service contracts (*Werkvertrag*) with the meat producers. This situation has been characterised as ‘organised irresponsibility’ not only by trade unions but also by politicians across the spectrum, such as Hubertus Heil, Social Democrat Federal Employment Minister (2020), and Karl-Josef Laumann, the Christian Democrat Employment Minister for the state of North Rhine-Westphalia and Chair of the Christian Democrat Workers Association (2020). In essence, many meat-producing firms have chosen to effectively repudiate any responsibility for workers in their core operations by sourcing labour through the intermediary of service companies. The upshot has been almost daily reports of major breaches of basic legal protections for workers on such contracts, most of whom originate from Eastern Europe.

Despite awareness of these problems extending back at least two decades (see Peter, 2006) no intervention has yet effectively tackled them. In fact, the opposite has happened. The emergence of this system of ‘organised irresponsibility’ is a direct result of the liberalisation of labour markets in Europe and the erosion of organised labour relations in the German meat industry. This has promoted a shift in the sector to a business model based on industrial mass production at constantly falling costs directed at supplying both the domestic market, dominated by the major retail outlets, and for exports, all at the expense of the wellbeing of both employees, and the livestock, caught up in it.

The past decade has seen several initiatives aimed at re-regulating labour relations in the German meat industry ranging from the setting of an industry-level minimum wage rate, using the machinery provided by a statutory system that operated up until the advent of the national minimum wage, a voluntary commitment by employers to improve working conditions in the branch, and finally, in 2017, legislation specifically targeted at improving employee rights in the industry. None of these has brought about any meaningful improvement.

Will this time be different? Several commentators have argued that the 2020 COVID outbreaks have pushed the meat industry to a ‘turning point’ (Terpitz and Kersting, 2020). Some have even suggested a ‘Fukushima effect’ (Dowideit, 2020). Reflecting this, in May 2020 the Federal government agreed a new legislative initiative for the meat industry that became law in December 2020. The Occupational Safety and Health Inspection Act, 2020 (*Arbeitsschutzkontrollgesetz*) constitutes a wide-ranging body of statutory regulation centred on a ban on contract work in the meat industry and stringent restrictions on the use of temporary agency employment.

Although these new statutory provisions are a significant step towards regulating employment relationships in the industry, they will not be enough on their own to secure decent working conditions for all employees across the whole industry. Employers in the industry have already shown that they have the flexibility to adjust to new constraints in order to maintain their current business model. In this respect, the new legislation should only serve as a prelude to a more fundamental renewal of labour relations in the industry. One further prerequisite is a strengthening of trade unions’ organisational strength and the rebuilding collective bargaining arrangements across the sector.

2 STRUCTURE OF THE GERMAN MEAT INDUSTRY

2.1 A statistical overview of the meat industry

The German meat sector overall consists of two major areas – small and regulated butchery trades (known as ‘*Handwerk*’) and the meat *industry*. As Table 1 shows, it is not always a straightforward matter to demarcate or statistically distinguish them. According to official statistics, *Handwerk* comprises some 9,500 establishments with around 150,000 employees (Statistisches Bundesamt, 2019). Just over half (54 per cent) of these establishments had fewer than 10 employees and only 5 per cent had 50 or more employees.

Figures from the trade association for *Handwerk* in the meat sector diverge somewhat from the official data. For 2018, this body registered some 12,000 establishments with 140,000 employees (Deutscher Fleischer-Verband, 2020: 85). This figure includes all butchery trades in Germany, including retail, of which only 7,750 were operated under the *Handwerk* regulations in the strict sense. In contrast to purely retail outlets, *Handwerk* establishments also include activities in meat production, processing and preserving, and in a few cases the operation of abattoirs. Official statistics therefore allocate most *Handwerk* establishments to the branch referred to as ‘Processing and preserving of meat and production of meat products’ (NACE C 10.1), with retail outlets assigned to ‘Retail sale of meat and meat products in specialised stores’ (NACE 47.22).

In contrast to the wide range of activities in the *Handwerk* sector, firms in the meat industry are exclusively concerned with the slaughtering and processing of animals. The Federal German Statistical Office collects data on enterprises in the meat industry for its ‘Monthly Report on Manufacturing’, but only for those with at least 50 employees. Based on this, in 2019 the German meat industry comprised 563 establishments with a total of more than 100,000 employees. Of these establishments, some 70 per cent (393) were assigned to meat processing and a further 172 were abattoirs (of which 40 were solely for poultry).

The ‘Annual detailed enterprise statistics for industry’ produced by the EU statistics authority Eurostat offers a further source of data on enterprises in the meat production, processing, and preserving branch. This has the advantage both that it encompasses all enterprises with at least one employee and also allows for cross-country comparison. The Eurostat data does not distinguish between the meat *industry* and *Handwerk*, however – an important distinction in Germany. According to Eurostat, in 2018 there were just under 9,500 enterprises with over 230,000 employees in the meat processing (that is slaughtering) and production industry, with some 10 per cent of enterprises and 20 per cent of the workforce engaged in slaughtering.

Data on the German meat industry (various sources)

	Establishments	Employees
Small trades and regulated skills (<i>Handwerk</i>)		
Federal Statistical Office: Statistics for Regulated Trades (2017)		
Butcher (<i>Fleischer</i>)	9,504	154,893
German Butchers Association (DFV): Enterprise statistics (2018)	11,917 (of which 7,750 are in the small trades sector)	139,750
Meat industry		
Federal Statistical Office: Monthly Report on Manufacturing* (2019)**		
Processing and production of meat and meat products (all) of which ...	563	100,357
Meat processing(excluding poultry)	132	22,869
Processing and preserving of poultry meat	40	10,342
Production of meat and poultry meat products	392	67,146
Small trades and meat industry		
EUROSTAT: Annual detailed enterprise statistics for industry*** (2018)		
Processing and preserving of meat and meat products ...	9,445	233,019
Processing and preserving of meat products (excluding poultry)	879	36,845
Processing of poultry meat	109	13,634
Production of meat and poultry meat products	8,457	182,540

* 'Monatsbericht für Betriebe im Verarbeitenden Gewerbe';

** Enterprises and establishments ('local units') with more than 50 employees

*** Establishments with one or more employee

Source: authors' compilation

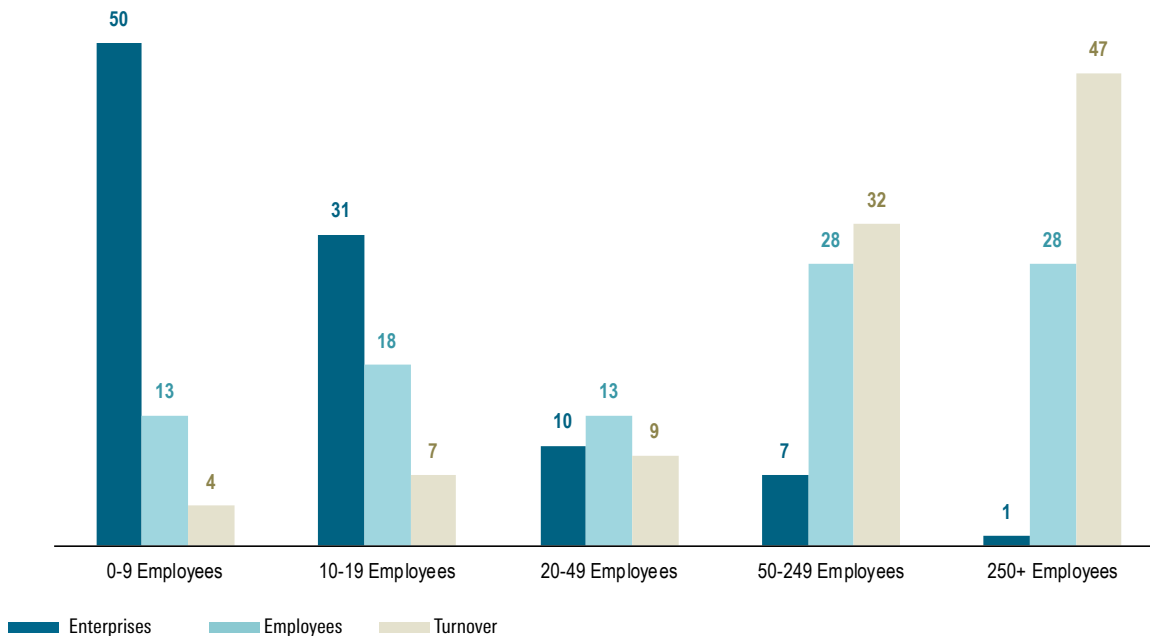
2.2 Companies, employment and turnover in the German meat sector

The meat-producing sector in Germany is sharply divided between a small number of very large companies and a multitude of small and micro enterprises. According to Eurostat, in 2018 more than 90 per cent of all enterprises engaged in the 'processing [i. e. slaughter] and production of meat' had fewer than 50 employees (Figure 1). Some 50 per cent of enterprises had fewer than 10 employees, 31 per cent had 10-19, and a further 10 had between 20 and 40 employees. Only 1 per cent of enterprises in the sector had more than 250 employees, but this tiny percentage accounted for 28 per cent of all employment and 47 per cent of turnover in the sector. Small and micro enterprises with fewer than 50 employees accounted for just 20 per cent of turnover.

The past two decades have seen a growing concentration of activities in the production and sale of meat products in Germany. While small *Handwerk* enterprises have been pushed out of the market, the increasing resort to industrialised operations has allowed large firms in the sector to integrate slaughter, cutting and boning, packaging and logistics under one roof, capturing increasingly large shares of the market. This is reflected in a shift in retail sales from small butchers' shops to the large supermarkets and discounters. The latter, in particular, have enlarged their sales of pre-packed meat products and increasingly exploited their market power to push for constant price reductions from the meat producers. In this respect, the retail trade has played a major role in driving the industrialisation of the meat sector. As Figure 2 shows, the market is now dominated by 15 companies (Stracke, 2019).

Figure 1

Enterprises, employment and turnover in meat processing and production in Germany by establishment size
data as % of total, 2017

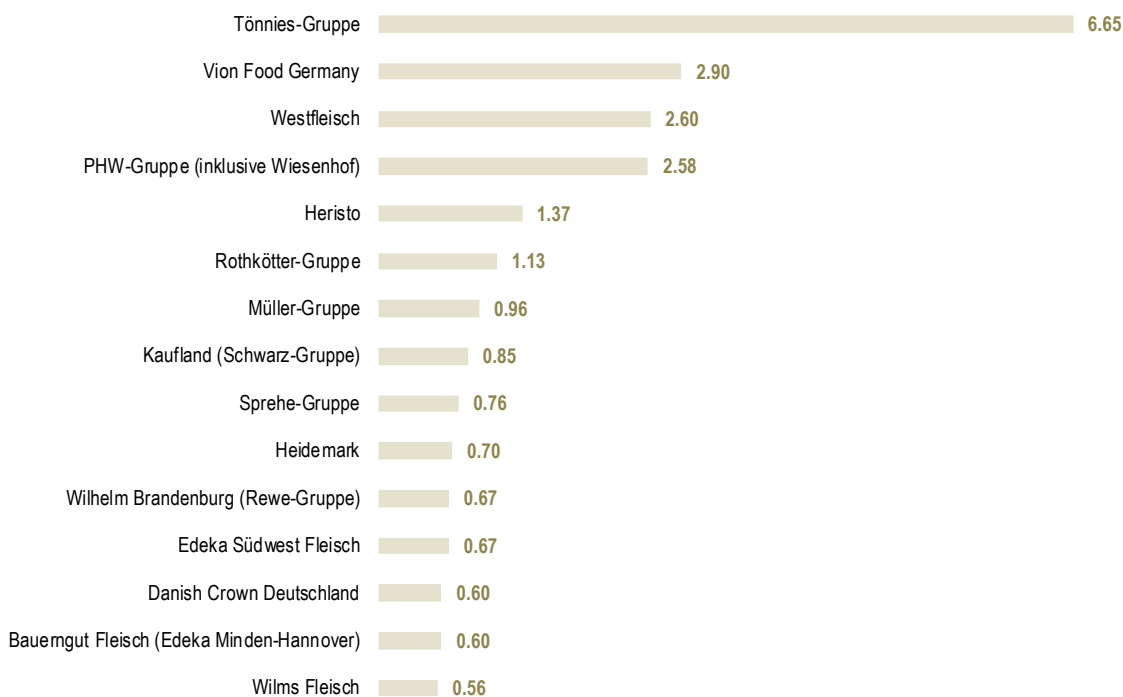


Source: Eurostat 2020 'Annual detailed enterprise statistics for industry'; authors' compilation.



Figure 2

The 15 largest meat enterprises in Germany turnover in billions of Euro, 2017/2018



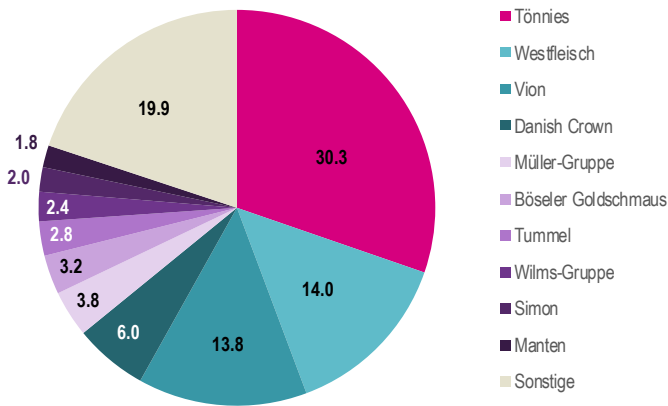
Source: 'Branchenmonitor Schlachten und Fleischverarbeitung' (Stracke, 2019: 5).



Figure 3

The largest pig slaughter enterprises in Germany

Market share in per cent, 2019



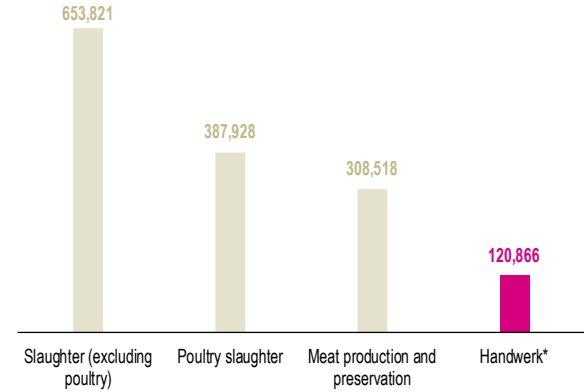
Source: ISN-Schlachthofranking-Deutschland 2019.



Figure 4

Turnover per employee in the German meat sector

Euro, 2019



*Figure for 2018

Source: Federal Statistical Office (2019), Monthly Report on Manufacturing; Deutscher Fleischer-Verband (2020: 85); authors' compilation.



The largest meat producing firm in Germany by far is the Tönnies Group, with a 2018 turnover of €6.6 billion – more than the next two largest groups in the sector combined. The group employs over 16,000 people (Stracke, 2019: 5), of which more than 6,000 work at its principal plant Rheda-Wiedenbrück (North Rhine-Westphalia), one of the largest meat production plants in Europe. Tönnies accounts for the slaughter of almost a third (30.3 per cent) of all pigs killed annually in Germany (Figure 3).

Some distance behind Tönnies, with a workforce of over 7,000, is Vion Food Germany, a subsidiary of the Dutch Vion Group, which has steadily extended its market share in Germany since the 1990s through acquisition. Third place is taken by the Westfleisch Group, with 4,000 employees in Germany. Westfleisch is based on a cooperative of some 4,000 animal breeders and farmers. These three groups together account for over 58 per cent of all pigs slaughtered in Germany. The fourth largest group, with 7,000 employees, is the PHF-Group, which trades under the brand 'Wiesenhof' and is the largest poultry slaughterer in Germany.

There are considerable differences between the various areas of the sector measured in terms of turnover per employee. As Figure 4 shows, the largest (and most profitable) is 'slaughter – excluding poultry'. In 2019, annual turnover per employee in this area was more than €650,000, well above the poultry branch (€390,000) and general meat processing (€310,000). By contrast, turnover per employee in *Handwerk* was just over €120,000 (Deutscher Fleischer-Verband, 2020: 85), not even half that of that in the meat industry.

2.3 The German meat sector as an export branch

The past three decades of expansion and restructuring have transformed the German meat sector from a net importer to a net exporter of meat products. The turnaround took place in 2005, since when there has been a steady increase in net exports, albeit with a slackening in the pace of growth of the surplus in more recent years (Figure 5). The German meat sector has doubled the share of foreign sales as a proportion of total turnover since the early-2000s, with a current figure of some 20 per cent (based on calculations drawing on official data). Based on its own figures, Tönnies now exports 50 per cent of its meat products by volume.¹

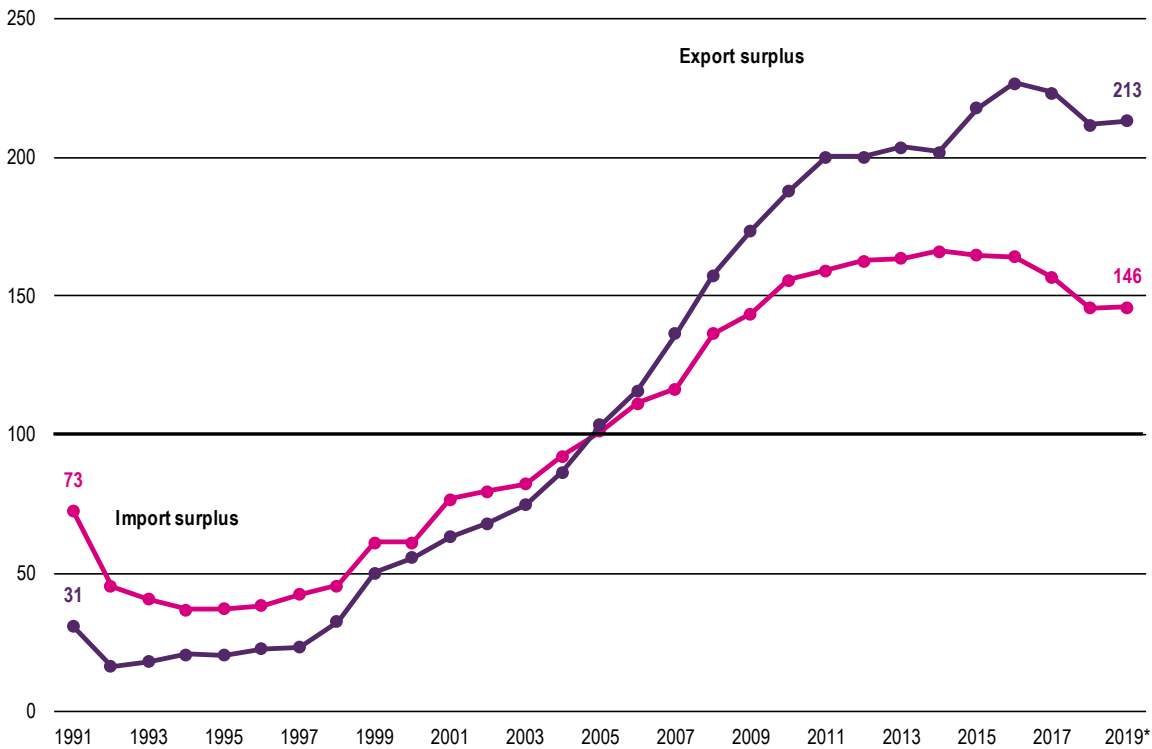
In 2019, more than four million tonnes of meat were exported, the bulk of which (some 58 per cent) was pigmeat (BLZ, 2020).

The most important destination, with around 80 per cent, was other EU Member States. China has also grown in significance as importer in recent years.

While the meat sector as a whole has registered persistent and high export surpluses, German abattoirs themselves are net importers: that is, many more live animals are imported into Germany for slaughter than are sent abroad, with a marked and sustained rise in imports of live pigs since the 2000s (Figure 6). The major importers are large non-German groups such as Vion or Danish Crown, both of which have substantially extended their slaughter capacity in Germany and shifted production there from their home bases on cost grounds.

Figure 5

Changes in the foreign trade balance of the German meat sector
Exports as percentage of imports, 1991-2019



* provisional data

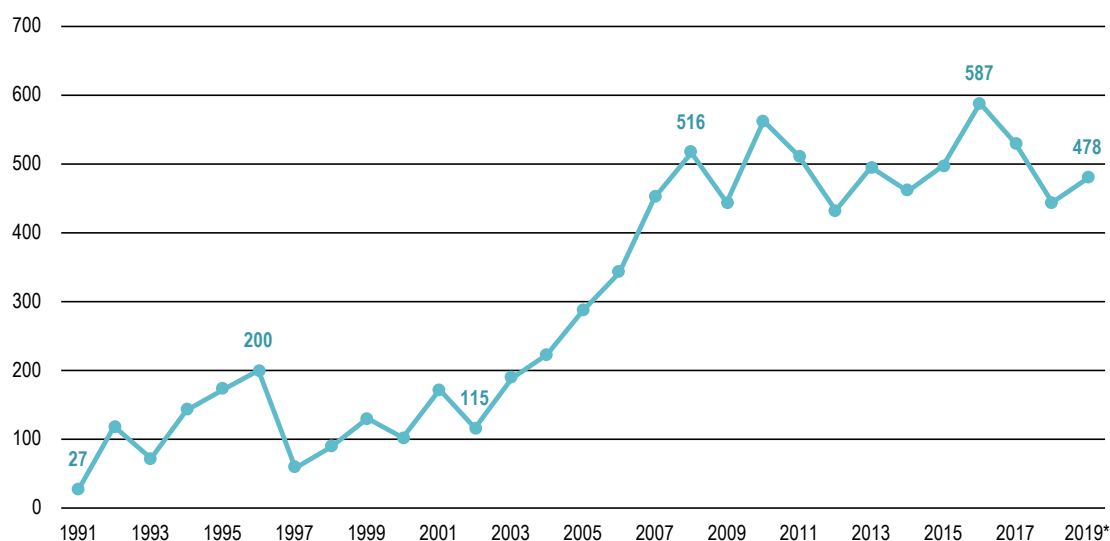
Legend: Pork (dark purple line), All meat (pink line)

Source: BLZ (2020), authors' compilation.

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¹ See <https://toennies.de/en/company/about-us/>.

Excess of imports over exports of live pigs, Germany 1,000s tonnes slaughter weight, 1991-2019



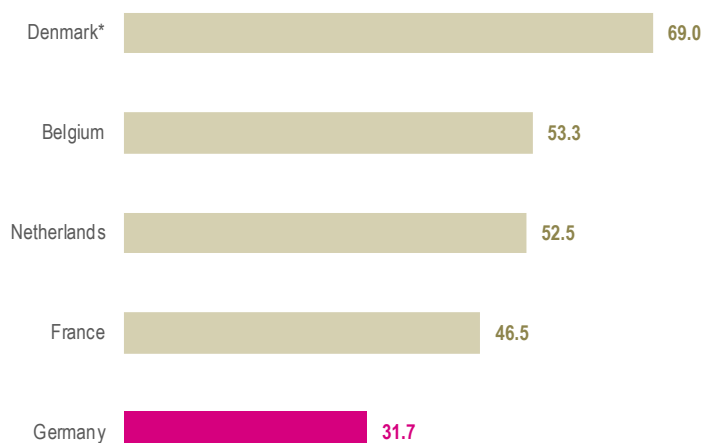
* provisional data

Source: BLZ (2020), authors' compilation.

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2.4 Low-cost production – the business model of the German meat industry

Annual labour costs in the meat sector: Germany and selected European countries per employee (full-time equivalent), in 1,000s Euros, 2018



* Data relates to 2017

Source: Eurostat, 2020, Annual Enterprise Statistics, authors' compilation..

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The expansion of the German meat sector, with its growing export orientation and attractiveness as a location for production and processing, is mainly the result of the adoption of a low-cost business model based in particular on very low labour costs compared with other significant meat-producing countries such as France, Belgium, the Netherlands, and Denmark (Figure 7). The contrast with Denmark, where annual labour costs per employee at €69,000 are double the German level, is especially stark. Labour costs in Belgium and the Netherlands are also more than 65 per cent above those in Germany, with France 50 per cent higher.

The German meat industry has long been accused of pursuing a strategy of 'wage dumping' by its European neighbours. In 2013, the Belgian government even submitted a formal complaint of unfair competition to the European Union (Simantke and Mielke, 2013). Most of the criticism centres on the issue of pay and working conditions combined with the extensive use of contract employees from Eastern Europe, many of whom work under circumstances that fall far short of prevailing German social and legal standards.

3 WORKING PRACTICES AND EMPLOYMENT CONDITIONS IN THE GERMAN MEAT INDUSTRY

Up until the 2000s, employment conditions in the German meat industry barely registered in terms of public attention, enjoying a degree of ‘uncritical anonymity’ (Schier et al., 1987: 8). Nonetheless, the rise of contract work in the 2000s led to increasingly frequent reports of precarious work at individual plants. Numerous studies have now shown that these were far from exceptions and that the problems encountered were an inevitable consequence of the business model that had come to dominate the industry (see, for example, Czommer and Worthmann, 2005; Peter, 2006; Brümmer 2014; Wagner and Hassel 2016; Erol 2017).

The focus of these studies was the large-scale deployment of contract workers from Eastern Europe on precarious employment terms and in unsatisfactory and insecure accommodation. This typically involves ‘on-site contracts for services’ that differ from conventional contracts for services in that the work is performed on the client’s premises and involves core tasks in the value-chain and operation of the establishment (Hertwig et al., 2015). Such contracts are used on a very large-scale, for example, in the core areas of slaughtering, cutting, and deboning. Far from being a buffer to absorb sudden upturns in production, contract work in the meat industry became a permanent and central feature of the production process.

3.1 Contract workers

The use of contract workers in the meat industry emerged and developed in the 1980s in the wake of labour market liberalisation and the privatisation of formerly public-owned abattoirs (Erol, 2017). Between 1988 and 1995, a series of bilateral agreements was concluded between Germany and twelve Central and Eastern European countries, including Turkey, that allowed workers to be posted to Germany under service contracts (Czommer and Worthmann, 2005: 2). This formed the basis of a system that operated in the industry for more than a decade, under which employees from Eastern Europe performed work in Germany but under the legal provisions, and often at pay rates, of their home countries. The eastwards extension of the EU in 2004 and 2007 meant that these bilateral agreements became obsolete. Rather, contract work became embedded as the core form of employment in the meat industry on the basis of the EU freedom to provide services that now applied to the former signatory countries.

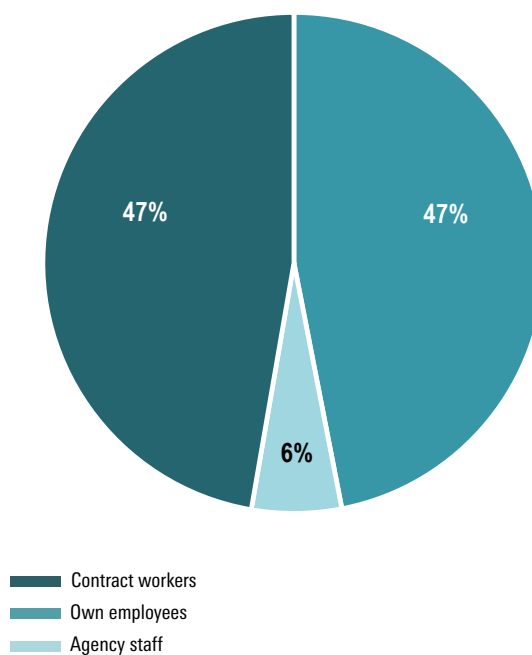
Contract employees of this type are not distinguished in official statistics and no official information is available about their incidence in the German meat industry (Bundesregierung, 2018: 4).

The industry itself regularly documents the number of contract workers, but only for the 52 companies that have entered into a voluntary commitment to improve conditions in the branch (see also below). At the end of 2018, some 22,000 contract workers were deployed at these firms, equivalent to just under a half (47 per cent) of their total workforce (Figure 8). A further 6 per cent consisted of temporary agency employees, meaning that only just under half (47 per cent) of these companies’ workforces consisted of employees on regular employment contracts.

While the food workers trade union NGG has estimated that around half of all those working in abattoirs do not belong to companies’ core workforces, some media reports have noted that contract workers accounted for as many as 90 per cent of the workforce in some plants (see Doelfs, 2016). And official inspections in the state of North Rhine-Westphalia have found cases in which the entire workforce consisted of contractors, with up to 30 different sub-contracting firms operating on the same site and with contracted workers engaged not only in slaughter and cutting operations but also responsible for the entire production process (MAGS, 2019).

Figure 8

Workforce composition at employers that signed voluntary commitment to raise standards per cent, 2018



Source: Sozialpolitischer Ausschuss der Fleischwirtschaft (2019), authors’ compilation.



3.2 Precarious work and employment conditions

With very few exceptions, contract workers in the meat industry are not covered by collective bargaining (see Section 4). The absence of a statutory minimum wage in Germany prior to 2015 also meant there was no enforceable wage floor at all, leading to extremely low rates of hourly pay – in some instances down to between €2.00 and €4.00 (Doelfs, 2012). This situation only changed in August 2014 when, in anticipation of the introduction of the new legal minimum, use was made of the envisaged transitional provisions to set a branch-specific minimum wage for the meat industry by means of a collective agreement concluded between the employers and trade union for the sector. This was then made binding on all employments in the branch using the German statutory procedure for declaring agreements ‘generally binding’ (Weinkopf and Hüttenhoff, 2017; Bosch et al., 2019).

The introduction of the statutory minimum wage, which also meant that contract workers in the industry received their first significant pay increase (Bosch et al., 2019: 213), also removed the incentive to hire contract staff on the conditions applicable in their home countries in Eastern Europe.² In 2015, the six largest meat-producers, including the three largest groups – Tönnies, Vion and Westfleisch – announced a voluntary scheme to improve working conditions in the sector and only take on contract workers who had been hired in Germany and were subject to German labour law and social security provisions (Sozialpolitischer Ausschuss der Fleischindustrie, 2016: 8). This led to the registration of 12,628 workers with the German social security system between 2014 and 2016 (8 per cent of the total) (BA, 2015; BA, 2017) and has meant that this distinctive form of posting employees from Eastern Europe to Germany has virtually come to a halt in the German meat industry.

In all, 52 firms have now signed this commitment. This requires them to assume responsibility for ensuring that contract workers are subject to German employment law and includes a pledge to raise the proportion of their workforces on conventional employment contracts, albeit without specifying a number.

Despite this, there has been little evidence either of a drop in the number of contract workers or any marked improvement in their conditions (Bosch et al., 2019 and 2020). Nor has there been much progress as a result of specific legislation to address employee rights in the meat industry that was introduced in 2017. This provided for a type of general contractor liability, under which a contracting company must ensure that sub-contractors pay the minimum wage and deduct social insurance contributions. Contracting firms must also provide equipment and protective clothing free of charge.

There is considerable evidence that employment practices in the German meat industry continue to breach fundamental legal requirements. This includes the frequent reports made by employees to the food industry union, the NGG, to the advice centres set up by the German Trade Union Confederation, the DGB, to assist internationally mobile workers (‘Faire Mobilität’; DGB, 2020a) and to other advice bodies. And as well as numerous media reports, information gathered by the authorities also points to institutionalised non-compliance on employment conditions. For example, inspections carried out by the health and safety authority in North Rhine-Westphalia between July and September 2019 in 30 slaughterhouses, employing some 17,000 workers through 90 service companies, found 9,000 breaches of the law (MAGS, 2019). Serious issues were identified in 85 per cent of plants inspected.

Most breaches involved working time, such as excessive working hours of more than 16 hours a day and non-compliance with mandated rest periods. There was also a lack of occupational health and safety facilities, technical safety shortcomings, and poor workplace safety organisation; there were also issues related to the provision of accommodation as well as housing provided by agents.

The North Rhine-Westphalian inspectors additionally found a variety of dubious forms of payment and instances of illegal wage deductions. These included (to quote the report):

- wage deductions for individual protective equipment,
- wage deductions for rent,
- wage deductions for transport,
- wage deductions for the induction period should the employee wish to terminate their employment before the agreed period,
- and deductions for misconduct’ (MAGS, 2018: 9).

² The statutory minimum wage does not apply to contracts for services. However, any sub-contractor that hire employees to perform a service must pay them the minimum wage. Client companies have a duty under the Minimum Wage Act to ensure this takes place.

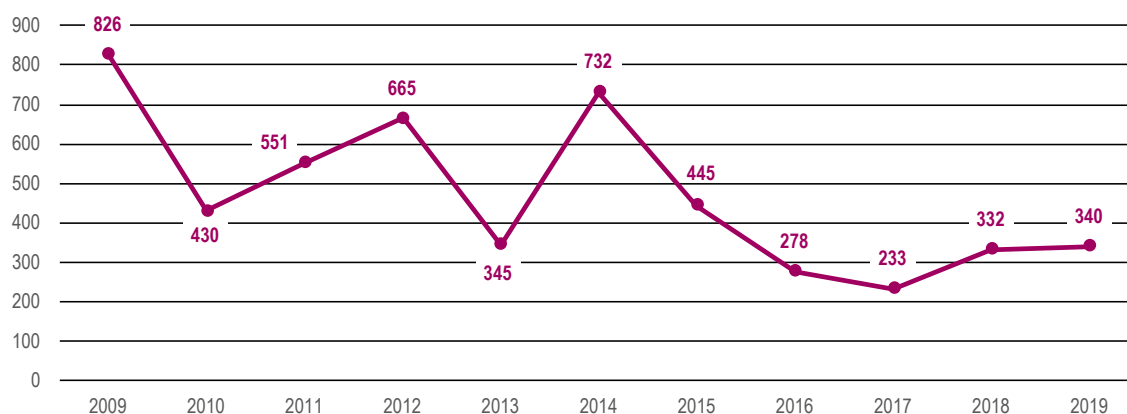
This highlights the fact that although the right to the minimum wage is guaranteed 'in theory', it is circumvented in practice via unpaid overtime and unwarranted pay deductions. In addition to flagrantly unlawful 'fees' levied on employees for equipment and protective clothing, the main means through which sub-contractors try to push down their overall labour costs is by charging excessive rents for employee accommodation, exploiting the vulnerability of East European migrant workers who often lack local knowledge and language skills.

Inspections also revealed that the meat producers take on scarcely any responsibility for the working conditions of contract workers employed on their premises. Conversely, very few problems were found where firms operated almost wholly using their own direct employees. Overall, the device of onsite service contracts systematically generates breaches of labour regulations, with the scope for adequate monitoring and control severely limited by the absence of any properly responsible parties at the workplace.

The bodies responsible for inspection and control – the various safety organisations and customs authorities – can only carry out spot checks and are unable to guarantee compliance with labour standards across the industry (Bosch et al., 2019). This is compounded by the fact that the number of inspections undertaken by the customs authorities has fallen in recent years (Figure 9): whereas some 400-700 employer checks were conducted annually in the first half of the 2010s, this has since dropped to around 300.

Figure 9

Number of official workplace inspections to identify instances of unlawful and undeclared work, Germany* 2009-2019



* Inspections are conducted by the FSK (Finanzkontrolle Schwarzarbeit) unit of the Federal German Customs administration.

Source: Bundesregierung (2019: 9); Bosch et al. (2020: 14).

4 COLLECTIVE BARGAINING IN THE MEAT SECTOR

Up until the early-1990s, most of the meat sector in Germany was covered by collective bargaining (Table 2). Virtually all constituent states (*Länder*) of the former West Germany had regional pay agreements, with separate agreements for *Handwerk* and for the meat industry, including abattoirs. Following the closure of public abattoirs in the 1970s and 1980s, most animal slaughter has been carried out by private fee-paid slaughterers, with increasing numbers of contract workers from Eastern Europe involved from the late-1980s (Erol, 2017b: 35ff). Following unification, West German collective bargaining arrangements were initially transferred to East Germany, with regional agreements concluded for the *Handwerk* sector in each of the East German *Länder* and, for a while, a single pay agreement for the meat industry across the whole of East Germany.

These agreements were negotiated between the Food and Restaurant Workers Union (*Gewerkschaft Nahrung Genuss Gaststätten*, NGG) and for the employers the regional *Handwerk* guilds, and the regional affiliates of the Food and Beverage Employers Association (*Arbeitgebervereinigung Nahrung und Genuss*, ANG) which also covers the meat industry. The willingness of the employer side to negotiate industry-level collective agreements for the whole branch began to decline from the 1990s, however. This was especially so in the meat industry, beginning with individual employers withdrawing from the association and culminating in most of the regional-level associations losing their negotiating mandate (Bosch et al., 2019: 192). One consequence was that from the 1990s, increasing numbers of regional collective agreements were not renewed on expiry. The only remaining regional branch agreement for the meat production industry is in the state of Hesse and this applies to just a few firms. The situation is more complex in the *Handwerk* sector. Although the regional-level guild organisations in many *Länder* are no longer willing to renew agreements, stable collective bargaining arrangements still exist in several West German *Länder* (such as Hesse, Bavaria, and Baden-Württemberg) and these regularly conclude new branch-level agreements.

One response to the erosion of branch-level bargaining in recent decades has been the negotiation of company agreements in several firms (Bosch et al. 2019; Whittall and Trinczek, 2020). The agreement database of the trade union NGG currently includes some 50 such agreements.³ In the main, major groups, such as Tönnies, Vion and Danish Crown, are not covered by collective agreement

(Table 3), with just a few of their subsidiaries subject to agreements concluded before their acquisition by one of the larger groups.

The only large group with extensive collective bargaining coverage is the cooperative-based Westfleisch, where the agreement covers not only core employees but also those employed by WENOVA, the in-house temporary staffing services company that provides most of the contract workers employed by the group. In September 2020, Westfleisch also concluded an agreement with the NGG union under which around 3,000 employers working for external service companies will move to permanent employment (Hertlein, 2020). Westfleisch is an isolated example in the meat industry, however. Staffing service companies are not generally subject to collective agreements and offer merely the statutory minimum wage.

The erosion of industry-level collective bargaining has also led to a marked fall in bargaining coverage across-the-board not only for contract workers but also for many core staff, with only a very limited offset in the form of new company-level agreements. In 2014, just 31 per cent of employees and 15 per cent of workplaces in the entire food industry in Germany were covered by a collective agreement (Statistisches Bundesamt, 2016). Although there are no official figures for the meat industry, coverage is likely to be lower than the average for the food industry as a whole. The Social Policy Committee of the Meat Producing Sector' (Sozialpolitischer Ausschuss der Fleischwirtschaft, 2016: 5) (see too below) noted that some 28,000 employees in the meat industry worked in firms covered by a collective agreement. This would correspond to a rate of collective bargaining coverage of some 28 per cent, based on a figure of 100,000 employees in firms with more than 50 staff (see too Table 1). Such agreements typically cover only core employees, with the true level of coverage probably much lower.

The low level of collective bargaining coverage in the meat industry is also an expression of the marked weakening of trade union organisation in this branch. The outsourcing of core operations such as slaughter and processing together with the growing resort to contract workers has had a direct impact on union density. Contract employees, largely from Eastern Europe, represent a particular challenge for union recruitment, given the high level of labour turnover, language barriers and the lack of access to sub-contractors, few of which have shown any inclination to cooperate with trade unions (Erol, 2017).

³ The authors are grateful to NGG for providing for this information.

Table 2

Pay agreements in the German meat sector

Handwerk			
Region	Organisational and sectoral scope*	Valid from	Valid to
<i>Collective agreements currently in force</i>			
Palatinate	Fleischer-Verband Pfalz	01.09.2018	31.08.2020
Rhineland-Rhine Hesse	Fleischerverband Rheinland-Rheinhessen	01.01.2019	31.12.2020
Hesse	Fleischerverband Hessen	01.03.2019	31.01.2021
Bavaria	Landesinnungsverband für das bayerische Fleischerhandwerk	01.05.2020	30.04.2021
Baden-Württemberg	Landesinnungsverband Fleischerhandwerk	01.07.2020	30.06.2021
<i>Expired collective agreements</i>			
Lower Saxony /Bremen	Fleischerverband Niedersachsen/Bremen	01.03.1995	31.03.1996
East Berlin	Fleischerverband Berlin-Brandenburg	01.05.1994	30.04.1995
West Berlin	Fleischerverband Berlin-Brandenburg	01.05.1994	30.04.1995
Saxony-Anhalt	Fleischerverband Sachsen-Anhalt	01.09.1998	31.05.1999
Saarland	Fleischerinnung des Saarlandes	01.09.2000	30.09.2002
Thuringia	Landesinnungsverband des Fleischerhandwerks Thüringen	01.08.2003	31.08.2004
Saxony	Sächsischer Fleischer-Innungs-Verband	01.06.2010	31.05.2011
North Rhine-Westphalia	Fleischerverband Nordrhein-Westfalen	01.10.2016	30.08.2018
Hamburg	Fleischwarenindustrie und Fleischhandwerk	01.07.2018	31.06.2019
Industry			
Region	Organisational and sectoral scope*	Valid from	Valid to
<i>Collective agreements currently in force</i>			
Hesse	Meat industry	01.08.2019	31.07.2021
<i>Expired collective agreements</i>			
Baden-Württemberg	Meat industry	01.05.1980	31.05.1981
Lower Saxony/Bremen	Meat industry	01.04.1988	31.03.1989
West Berlin	Meat industry and delicatessen products	01.07.1995	30.06.1996
Saarland	Meat industry and delicatessen products	01.07.1995	30.06.1996
Schleswig-Holstein	Meat industry	01.07.1995	30.06.1996
Brandenburg/East Berlin	Meat industry and delicatessen products	01.07.1995	30.06.1996
East Germany	Meat and poultry industry	01.10.1995	30.09.1997
Westphalia	Mat industry	01.04.1996	31.03.1998
Bavaria	Meat industry	01.06.2013	31.05.2014
Hamburg	Handwerk and meat industry	01.07.2018	31.06.2019

* This column refers either to employer associations that have concluded collective agreements that bind their members (Verband) or the relevant branch. Organisational names have not been translated.

Source: WSI Collective Agreement Archive (as at September 2020).

While the NGG union is still fairly well represented at some plants, notably at Westfleisch and Vion, where more than a third of the workforce are union members, NGG estimates that overall union density in the branch is only some 10 per cent. In addition, many meat factories do not have a works council and even where these have been set up, they are often reported as being close to management with a distanced relationship to trade unions (Whittall and Trinczek, 2019: 708; idem, 2020: 116f.) Works councils that do operate independently of management are also confronted by the problem of only being able to represent regular employees, with no competence for contract workers. And finally, many meat producing groups have opted to incorporate themselves in legal vehicles that put them outside the scope of German board-level codetermination, under which employee and trade union representatives sit on company supervisory boards. Tönnies, for example, a Danish corporate form (ApS & Co. KG) that is recognised in Germany but does not require board-level codetermination (I.M.U. 2020).

The low level of collective bargaining coverage in the industry also reflects the weak organisation of the employer side and the absence of, or lack of clarity over, negotiating competences. Up until the 1990s, regional agreements were generally signed by the state-level (*Land*) federations of the national employer association for the sector, the ANG.

The situation is now that in many instances it is unclear whether these federations still retain any such competence. National branch-level associations, such as the Association of the Meat Industry (*Verband der Fleischwirtschaft*, VDF), the Federal Federation of the German Meat Products Industry (*Bundesverband der Deutschen Fleischwarenindustrie*, BVDF) or the Central Federation of the German Poultry Industry (*Zentralverband der Deutschen Geflügelwirtschaft*, ZDG), lack such negotiating powers.

A key role in coordinating the industry's approach to employment and social issues is the forum known as the 'Social Policy Committee of the Meat Producing Sector' (*Sozialpolitischer Ausschuss der Fleischwirtschaft*, SPA Fleisch). This is a joint platform of firms in the meat products industry, including slaughter and processing, and covering the poultry branch, and is supported by the VDF, BVDF and ZDG associations. 'SPA Fleisch' is organisationally linked to the Food Industry Federation (*Verband der Ernährungswirtschaft*, VdEW), which although a regional affiliate of the national Food and Beverage Employers Association, ANG, in the regions of Lower Saxony, Bremen und Saxony-Anhalt exercises a national coordinating role. The VdEW has, accordingly, led negotiations on a branch-level minimum wage based on other ANG regional affiliates assigning their negotiating mandate to it (Bosch et al., 2019: 211f.).

Table 3

Collective bargaining coverage in selected companies

Company	Collective bargaining arrangements
Tönnies	Mainly not covered by collective agreements: some company agreements in acquired firms (especially in the Mühlen Group of firms)
Vion	Mainly not covered by collective agreements: some company agreements in acquired firms (especially in companies formerly part of Nordfleisch)
Westfleisch	Predominantly company-level agreements for the parent firm Westfleisch SCE mbH für WENOVA Personal-Service GmbH and other subsidiaries
Danish Crown	Mainly not covered by collective agreements: some company-level agreements at subsidiaries (such as Tulip)

Source: WSI Collective Agreement Archive (as at September 2020); NGG-Tarifdatenbank.

A note on collective bargaining in the meat industry in neighbouring EU member states.

In contrast to Germany, the meat industry in most West and North European mainland countries is subject to comprehensive collective bargaining arrangements (Campanella and Dazzi, 2020; see also Table 4). National industry-level agreements have not only managed to avert the extreme division of the workforce into core and periphery that characterises Germany but also set considerably higher pay levels (see Section 3). Bargaining arrangements also benefit from statutory extension procedures in Belgium, France and the Netherlands, ensuring that agreed standards apply to all employers in the industry.

There is a unique situation in the Danish meat industry, where the high level of trade union membership of over 90 per cent means that the national collective agreements are de facto applied everywhere, despite there being no formal extension mechanism (Wagner and Refslund 2016; Anwar 2020). Trade unions have also succeeded in organising the growing share of foreign workers (Navrbjerg 2020, S. 88).

Table 4

Collective agreement in the meat industry in selected European countries

Country	Collective bargaining provisions
Belgium	<p>National branch agreement for the food industry with specific provisions for abattoirs and food production and processing (generally binding)</p> <p>Negotiated between employers and trade unions in joint commission No. 118 (Commission paritaire de l'industrie alimentaire) https://www.horval.be/sites/default/files/publications/pdf/1945_horval_a5_2019-2020_cp118_fr_v5_0.pdf</p>
Denmark	<p>National agreement for the meat industry</p> <p>Overenskomsten på slagterindustri-området (in English: https://www.nnf.dk/media/crbahi0z/slagteroverenskomst-2020-2023-engelsk.pdf)</p>
France	<p>National agreement for the meat industry (generally binding)</p> <p>Convention collective nationale des industries de la transformation des volaille https://www.legifrance.gouv.fr/affichIDCC.do?idConvention=KALICONT000005635284</p> <p>National agreement for abattoirs (generally binding)</p> <p>Convention collective abattoirs https://www.coover.fr/conventions-collectives/abattoirs</p>
Netherlands	<p>National agreement for the meat industry (generally binding)</p> <p>Collectieve Arbeidsovereenkomst (CAO) van Vleessector https://www.fnv.nl/cao-sector/voedingsindustrie/vleesindustrie/cao-vleessector</p>

Source: WSI Collective Agreement Archive (as at September 2020).



5 RENEWING LABOUR RELATIONS IN THE MEAT INDUSTRY

All previous efforts to achieve a more rigorous regulation of employment practices in the meat industry, in essence via voluntary commitments by meat-producing firms, have not proved up to the task of redressing the multiple concerns about employment conditions and accommodation in the industry (Bosch et al., 2020). Intensified public attention prompted by the impact of the Covid pandemic on the industry has raised the pressures – both social and political – on the branch to such a degree that there is currently a real opportunity to restructure and renew labour relations in the sector. The first step in this is the new statutory provision prohibiting certain forms of employment, such as contract or temporary agency work, in core operations, combined with a more comprehensive and efficient system of inspection to monitor compliance with minimum statutory requirements. A second, and necessary, step should involve re-establishing industry-level collective bargaining: only a collective agreement can ensure that decent working conditions apply to the branch as a whole.

5.1 Statutory regulation – Occupational Safety and Health Inspection Act, 2020

Immediately after news emerged of the COVID outbreaks in meat factories in May 2020, the Federal government put forward proposals for an enhanced employee health and safety regime for the sector. In summer 2020, this culminated in draft legislation that was laid before the Bundestag (the Lower House of the German Parliament) in August 2020 (Bundesregierung, 2020). After a period of controversial debate, the draft was revised and eventually adopted in December 2020. The so-called Occupational Safety and Health Inspection Act (*Arbeitsschutzkontrollgesetz*) encompasses a comprehensive set of provisions with many new regulations requiring amendments to existing legislation (Table 5).

The most significant provision is a change in the 2017 law on employee rights in the meat sector (known as 'GSA Fleisch'). In future, only regularly employed workers of the principal employer will be allowed to engage in the core areas of slaughtering, cutting and boning: this will be achieved by a ban on contract work in these areas from 1 January 2021 and of temporary agency employment from 1 April 2021. The German government considers that such a ban is necessary to end the 'lack of transparency associated with the coexistence [in one workplace] of a wide diversity of forms of employment' and to establish 'clear lines of responsibility' for working conditions (Bundesregierung, 2020: 3).

The prohibition of contract and temporary agency work applies only to enterprises with more than 50 employees, largely excluding the *Handwerk* sector.

The law will also stipulate that meat-producing firms must adopt the electronic recording of employee's hours of work in order to improve the monitoring of compliance with minimum wage legislation. Inspection will also be significantly stepped up through the introduction of a minimum inspection ratio of 5 per cent of workplaces. Finally, financial penalties for breaches of regulations on working hours will be stiffened, with a doubling to €30,000.

Despite initial resistance to the prospect of greater legislative control on the part of industry representatives, and in particular the ban on contract work, which they argued was indispensable, the employers now seem to have acceded to the proposed measures given the intense public concern. In a response to the draft law, the Social Policy Committee of the Meat Producing Sector ('SPA Fleisch') conceded that 'society and the political community expect an improvement in working conditions in the meat sector' and indicated it would abandon its fundamental objection to the ban on contract work (VdEW, 2020).⁴ It also noted that several large employers, such as Westfleisch, Tönnies and Vion, had indicated their willingness to offer all contract workers a regular employment contract (Hofmann, 2020; Tönnies, 2020).

Nonetheless, SPA Fleisch opposed virtually all the other proposed regulations, which they saw as serious incursions into corporate prerogatives. There was strong objection to the ban on temporary agency employment and a wish to retain contract work in areas outside that of slaughter, such as packaging. It also opposed the proposal that former contract workers should be directly employed by the ultimate owner of their workplace and not by a subsidiary company. SPA Fleisch further criticised the branch-specific nature of the measures, such as the minimum inspection quota, on the grounds that serious breaches of working time regulations also occurred in other industries. There was also a challenge as to whether it was legally permissible for legislation to address a particular branch (BDA, 2020), a position decisively rebutted by several legal opinions and commentaries (Däubler, 2020; Deinert, 2020).

By contrast, German trade unions have long argued for the abolition of the contract labour system in the meat industry and urged that the legislation be adopted without any further 'watering down' (NGG, 2020b).

4 For its part, the national employer association, the Federation of German Employers' Association (BDA), has continued to reject the ban on the use of contract work in the meat industry (BDA 2020).

Main elements of the Occupational Safety and Health Inspection Act

Area	New provisions	Existing legislation
Employment	<p>Ban on contracts of service (from 1.1. 2021) Ban on temporary agency work (from 1.4.2021) in slaughter, cutting and deboning, meat processing</p> <p>For a transitional period of three years, temporary agency work can be used in the meat processing sector (but not slaughter/cutting/deboning) provided this is regulated by a collective agreement and only under certain conditions:</p> <ul style="list-style-type: none"> • Agency employees may only account for a maximum of 8% of a workplace's employment, as measured in terms of annual working hours; • A maximum assignment length of 4 months; <p>Same pay and conditions for agency and core staff from the first day of the assignment.</p>	<p>Law to Protect Employee Rights in the Meat Sector</p> <p>(Gesetz zur Sicherung von Arbeitnehmerrechten in der Fleischwirtschaft - GSA Fleisch)</p>
Working hours	<p>Requirement to electronically record employees' working hours</p> <p>Rest periods, changing and washing up time to be counted as paid working hours.</p>	<p>Law to Combat Unlawful and Undeclared Work</p> <p>(Schwarzarbeitsbekämpfungsgesetz - SchwarzArbG)</p>
Inspection	<p>Minimum inspection requirement of 5% of workplaces in the meat industry annually in each <i>Land</i>.</p> <p>Establishment of a Special Federal Unit for Safety and Health at the Federal Institute for Occupational Safety and Health (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin, BAuA)</p>	<p>Occupational Health and Safety Act</p> <p>(Arbeitsschutzgesetz - ArbSchG)</p>
Penalties	<p>Financial penalties for breaches of the Working Time Act to be doubled to €30,000.</p>	<p>Working Time Act</p> <p>(Arbeitszeitgesetz - ArbZG)</p>
Accommodation	<p>Minimum standards for communal accommodation, including off-site.</p>	<p>Workplace Ordinance</p> <p>(Arbeitsstättenverordnung - ArbStättV)</p>

Source: Bundesregierung (2020); Deutscher Bundestag (2020).



In their response to the draft legislation, the trade unions stressed the need to retain the proposed ban on temporary agency work, given their concerns that many former contract workers would simply be replaced by agency staff (DGB, 2020b; NGG, 2020d).

This also applied to the proposed requirement that employees should be directly employed by the ultimate owner of the workplace in which contract workers were engaged, a provision intended to prevent firms from avoiding the setting of uniform working conditions within a workplace or possibly circumventing the ban by establishing subsidiaries. It was known, for example, that the Tönnies Group had set up 15 new subsidiaries to employ future production workers when the proposed ban was first announced (Keuchel and Verfürden, 2020). One trade union demand on this issue was that employees and their representatives should have an express right to information about ownership of

their workplaces in order to monitor whether this condition was met

Concern about avoidance has also prompted trade union criticism that the restrictions on contract and temporary agency work, together with electronic hours recording, will apply only to enterprises with 50 or more employees, arguing that only those *Handwerk* establishments with fewer than 10 employees should be exempt (DGB, 2020b; NGG, 2020d) and that *Handwerk* enterprises should be brought within the requirement for electronic hours recording to guard against possible manipulation by employers. And while the trade unions have welcomed the new minimum inspection quota for the meat industry, the envisaged financial penalties for breaches of working time regulations are seen as too low.

German trade unions have also emphasised the need for further improvements in how workers' accommodation is regulated with two specific de-

mands (DGB, 2020b). Firstly, there should be an upper limit to charges for employer-provided accommodation; and secondly, there should be a separation between the contract of employment and any accommodation contract to avoid the possibility that a tenancy could be terminated at exactly the same time as employment ends.

The massive lobbying campaign against the proposed legislation waged by the industry induced some members of the parliamentary group of the two main (and governing) conservative parties (Christian Social Party and Christian Democratic Party) to oppose it, specifically on the proposed banning of temporary agency work in the branch (Queck and Bender, 2020), necessitating amendments to ensure agreement across all sections of the ruling coalition (Deutscher Bundestag, 2020). Although temporary agency employment will still be prohibited, as planned, from 1 April 2021, there will be a three-year transitional period during which the meat processing industry will be able to continue using agency employees, subject to some limitations. This will require a corresponding agreement with the relevant trade union and an upper limit for temporary agency employment of 8 per cent of an establishment's total annual working time. It will be possible for some temporary agency employees to work for a maximum of four months but these must be on the same pay and conditions as core employees (*ibid.*).

Aside from these specific contentious aspects, the draft was passed by a large majority in late-December 2020, marking a significant step towards a recasting of labour relations in the meat industry. The trade unions have also welcomed the law as an 'historic milestone... which offers an opportunity to reorganise the entire branch' (NGG, 2020f). Recent experience has taught, however, that employers in the industry are well-versed in the art of devising novel – and precarious – employment practices in order to retain their low-cost business model. Much will therefore depend on how the law is implemented and its effects monitored.

The adoption of the law also delivers an important precondition for achieving a fundamental improvement in working conditions in the industry. The law alone, however, will not be sufficient on its own to ensure decent conditions across the sector. One further vital step will be the resumption of industry-level collective bargaining to enable binding standards to be established throughout the industry.

5.2 Rebuilding industry collective bargaining in the meat industry

The ban on contract work and the restrictions placed on temporary agency employment in the meat industry will initially mean that any collective agreements currently in force will apply to all employees at a workplace and not merely core staff on regular employment contracts, removing the division between these two groups of workers. This also means that, for the first time, former contract workers at firms with company-level agreements will enjoy the protection of a collective agreement. An unambiguous allocation of employees to workplaces will also make it easier for trade unions to build their workplace organisational strength and give greater scope to press for negotiations in workplaces that have so far been outside the scope of collective bargaining (Birke, 2021). Fresh approaches to organising might also be needed to draw the large number of prospective regular employees from Eastern Europe into playing an active part in trade unions.⁵ It will also be vital to ensure that works councils at meat producing companies are engaged with trade unions and able to act independently and free of managerial influence (Whittall and Trinczek, 2019).

Given the fragmented structure of collective bargaining in the meat industry and the low level of trade union implantation in many workplaces, there seems little prospect of achieving a comprehensive branch-level agreement via a strategy of 'house-to-house combat' at individual firms. And given the intense competition in the industry, establishing decent working conditions requires a basis of industry-wide minimum standards to prevent individual firms gaining a competitive advantage through wage and social dumping. Accordingly, in 2020, NGG called, once again, on the employers to engage in industry-level negotiations (NGG, 2020a).

Both the industry-level employer associations and many leading firms in the sector have long opposed such a step. Even the agreement on a branch-level minimum wage in 2014 only came about because of massive public and political pressure (Weinkopf and Hüttenhoff, 2017; Bosch et al., 2019) and the wage rate itself has not been updated since 2017. This makes it all the more astonishing that SPA Fleisch, albeit in the context of the controversies that have surrounded the industry, has proposed negotiating an industry-level collective agreement that should then be declared generally binding throughout the branch (VdEW, 2020; see also Fisser, 2020).

⁵ The experiences of other European trade unions in organising Eastern European workers in the meat industry could be helpful in this area: see on Denmark, for example, Navrbjerg (2020) or for the United Kingdom (Hardy et al. 2012; Kuhlmann/Vogeler 2020).

This has even been suggested by the Tönnies Group, the largest meat producer in Germany and a company previously outside the scope of collective bargaining (Tönnies, 2020).

According to the employers, such an agreement should not only set a branch-specific minimum wage but also regulate issues that featured in the draft law on improving enforcement in the industry, such as the scope of temporary agency work and workers' accommodation (VdEW, 2020). This has aroused concern on the part of NGG that the main intent behind this sudden conversion to the virtues of collective bargaining is to undermine the new statute. NGG has stated that it would not be party to such a 'pretext' and would only engage in negotiations on the basis of the new statutory stipulations (NGG, 2020c). It remains to be seen whether the employers will still be willing to join branch-level negotiations and participate in reconstructing labour relations in the industry now that the law has passed. Some employer bodies, such as the Federation of the German Meat Products Industry (BVDF), have already expressed misgivings about the prospect of a generally-binding branch agreement (Rast, 2020).

The new statutory stipulation allowing temporary agency work only where a collective agreement provides for this could generate a renewed interest in developing collective bargaining arrangements on the part of some employers.

The NGG has already made it very clear, however, that it is not willing to conclude an agreement that deals solely with temporary agency work and would negotiate on this only as a part of a more comprehensive set of agreed provisions. NGG also does not want a 'patchwork' of varying workplace provisions and has consequently called on the employers to engage in national level negotiations (NGG, 2020e).

For the NGG, any resumption of branch-level collective bargaining would have to encompass not only a set of minimum provisions but – as in other industries – more comprehensive stipulations to ensure decent conditions for all employees, covering issues such as pay, working time, holidays etc. Such an agreement would offer a binding framework for competition in the industry and contribute to ending the destructive price competition that takes place on the backs of the workforce. It would also represent an important step towards a much-needed change in the sector's dominant business model – based on low-cost production, predatory competition, and boosting exports – and enable a transition to an approach more in line with the demands of human, and animal, welfare.

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