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## **Industrial Relations in the Postal Sector**

The case of Germany

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## *Abstract*

*The liberalisation process and the growing number of companies entering into the postal market have slowed the decline of sectoral employment that could have been expected as a result of technical progress and structural change. Moreover, industrial relations are highly decentralised.*

## **1 Background**

The objective of this comparative study is to investigate the structure and main features of industrial relations in the postal sector in Europe, with a particular emphasis on the challenges faced by social partners in front of the liberalisation and privatisation processes affecting core postal activities.

The postal sector— together with energy and telecommunications – is one of those sectors providing services of general interest (SGI) of an economic nature. In the European Union post offices have always been noted for providing crucial service to the more isolated districts and more disadvantaged people in society. Until recently, in all member States, with few exceptions, the service used to be provided by a single public sector operator, which enjoyed a monopoly over the crucial postal activities, thus assuring a universal service.

Over the last two decades, however, the organisation and delivery of postal services have undergone considerable change, as a result of both new consumer demands and the restrictions imposed on public expenditure by a new economic and political environment. Change, which was largely facilitated by technological innovation, led first to a certain degree of liberalisation in relation to some aspects of the delivery of postal services. Thus an increasing number of private providers were able to emerge and secure a significant share of the high value-added services market not covered by the post office monopoly. At the same time, post offices expanded considerably the range of their activities, which currently may include financial, insurance as well as other services along with the more traditional postal ones. At present the postal sector is characterised by a varying presence of both public and private operators, providing a broad range of services and products.

Since the late 90s, after the enactment of the December 1997 EU Directive on postal services, an extensive process of corporate restructuring – and sometimes of privatisation – was initiated by the national postal companies. It aimed at removing barriers to change and better achieving the goals of increased efficiency, augmented productivity and cost containment necessary to survive and consolidate in a more competitive environment. To be noted is that the European Directive, in view of the crucial social functions performed traditionally by post offices, required all Member States to guarantee a universal postal service covering at least the collection, classification, transport and distribution of postal items of up to two kilos and parcels of up to 10 kilos, as well as registered mail and insured-value mail. However, it allowed Member States to reserve specific parts of domestic, urgent or ordinary correspondence, as well as other mail services, for commercial operators if considered necessary for the efficient operation of the service. In other terms, it called for the substantial retention of a strong universal postal service, within the context of liberalisation.

Changes which occurred included the structural reorganisation and legal transformation of previously state-owned postal companies; the closure of unprofitable branches and transfer of their activities to subcontractors; the reduction in the number of post offices, sometimes replaced by post counters situated in local businesses already providing some other service; a massive process of application of new technologies to post offices and sorting centres. The impact – both quantitative and qualitative – on employment was substantial, with a considerable number of jobs lost, and considerable changes in terms and conditions of employment. Significantly, in response to the new challenges, the EU-level social partners in postal services signed in October 1998 a framework agreement on the promotion of employment in the sector, aiming to improve working conditions, enhance consultative arrangements and ensure that employees are able to adapt to technological developments. More recently, in November 2005, the Universal Postal Union – a United Nations specialised agency acting as a forum for cooperation between postal services – and Union Network International – a global union with 2.5 million members employed in the postal sector – signed a cooperation agreement aimed at promoting social dialogue between the two organisations. More specifically, they made a commitment to establish joint ac-

tions that focus on the employment impact of developments in the postal sector, with particular attention to health and safety of workers and the improvement and development of the skills of postal workers.

On the other hand, new concern arose among most trade unions representing postal workers in Europe when a draft Directive— known as the ‘Bolkestein Directive’ after the name of the Internal Market Commissioner who submitted the proposal – was proposed in 2004. The draft directive, which covers also services of general interest if they are of an economic nature, as is the case of postal services, aimed at removing legal and administrative barriers to the development of a free market for services in the EU; but it met with strong opposition by the majority of the trade unions fearing that it would lead to social dumping.

One may conclude that developments in the postal services sector reveal a mixed picture in rapid evolution, characterised by a search for cooperation and social dialogue between the social partners and by the enhancement of competition between the service providers.

## **2 The postal sector in general: basic data and trends**

With respect to the postal sector in its more general and inclusive definition (that is including any kind of services provided by postal operators, such as financial or insurance services), reliable and comparable data are only available on distinct demarcations of industries according to the NACE classification scheme. Information on NACE 64.1 is presented in sections 3 and 4.

In 1989, the former Federal Postal Service (Deutsche Bundespost) was divided into three state-owned companies: postal services (Postdienst), telecommunication services (Telekom), and financial services (Postbank). According to the Basic Law, or Constitution (Grundgesetz), the three companies were legally the public property to the Federal Administration (Bundesverwaltung); they were, however, independent in terms of day-to-day decision making. Despite this autonomy, they were still directly controlled by the former Ministry of Post and Telecommunications (Bundesministerium für Post und Telekommunikation, BMPT). In 1994, the Basic Law was amended to a sufficient degree to allow the privatisation of the three enterprises to go

ahead. On 1 January 1995, each of the three enterprises was transformed into a public limited company (Aktiengesellschaft). The majority of the stocks in these companies was held by the state. The privatisation allowed the companies to expand their activities into foreign markets. A specific paragraph was added to the Basic Law. It stipulates that the Federal Government has to guarantee the nation-wide provision of, and access to, postal and telecommunication services. In 1999, Deutsche Post, the successor of Postdienst, acquired those stocks that had been held by the Federal Government in the Postbank. Since 1998, Deutsche Post has acquired several other companies and is, today, the only shareholder in the Deutsche Post World Net holding company.

### **3 The mail service sector: structure and change**

The markets for the distribution of parcels and for transnational courier activities were liberalised when the Federal Postal Service was split into the three public companies in 1989. However, by law, the distribution of letters or written correspondences from one person to another had, since 1969, been exclusively provided by the Federal Postal Service (Briefmonopol). In principle, this monopoly privilege was passed to the Postdienst and then to Deutsche Post. This privilege came to an end when a new law on postal services came into effect in 1998 (Postgesetz). Since then, the distribution of post has been partly liberalised and has become, in principle, open to private operators. Nonetheless, Deutsche Post was temporarily granted a slightly modified monopoly privilege (Exklusivlizenz) that should reimburse the company for its expenditures on the pensions of retired federal civil servants who used to work for the Federal Postal Service. Deutsche Post was already released from this burden in 2000. The initial intention was to end the monopoly privilege on 31 December 2002; however, in 2001, it was prolonged. It will eventually expire on 31 December 2007. Contrary to its broad definition before 1998, the privilege was, in the beginning, restricted to post that did not exceed 200 grammes. This threshold has, since 1998, been lowered several times. At present, the monopoly privilege only extends to those items of post that are distributed within the national borders and that do not weigh more than 50 grammes. In addition, the privilege can be circumvented if the postal service of an entrant provides a higher quality standard than the 'general service'

(Universaldienst) provided by Deutsche Post; for instance, the monopoly does not apply to post that is delivered on the same day as it is collected. The standards and terms of the 'general service' are defined by the state.

Nonetheless, entry of private operators to the market of mail services for products that exceed the weight threshold has not been generally free since 1998. For mails up to 1,000 grammes, companies have had to apply for a licence at the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (Bundesnetzagentur). The application may be approved if the applicant can prove its capability of providing the service, does not jeopardise the public safety, and abides by the 'normal' working conditions that prevail in the licensed sector.

2. If and when the sector has been involved in restructuring processes (offices closures, automation, reorganisation of production, outsourcing and contracting out, etc.) since the 1980s and the main consequences of these processes on employment (redundancies, recourse to different kind of contracts, etc.) and on work organisation (changes in the skills levels required, training; recourse to functional flexibility, longer operating hours, shift work, etc.).

By law (Post-Universaldienstordnung, PUDLV), the delivery of the 'general service' involves the provision of, at least, 12,000 post offices across Germany of which, at least, 5,000 have to be run by employees of the holder of the monopoly privilege, that is by Deutsche Post, by 2008. From 1995 to September 2005, the number of post offices decreased from 16,971 to 12,685. The share of post offices owned by the monopoly holder dropped from 82% in 1995 to 44% in 2005. The PUDLV also stipulates the terms of the spatial allocation of post offices across Germany. Therefore, the closure of post offices by Deutsche Post has been concentrated in those regions where the company is not obliged to run post offices. In addition, Deutsche Post voluntarily guarantees the provision of a sufficient number of post boxes across Germany. The Federal Network Agency, however, stated in its latest annual report that the quantitative criteria concerning the total number of post offices and the number of post offices owned by the provider of the 'general service' should be abolished. The agency argued that sufficient access to postal services across the nation – especially in rural areas – could be

guaranteed more effectively by modifying the legal terms that determine the geographic provision of services and that govern the running of the 'general service'.

According to the company register compiled by the Federal Statistical Office (Statistisches Bundesamt, Destatis), almost 9,500 companies were, in 2005, doing businesses in NACE section 64.1. These firms employed more than 209,000 employees who have to pay social-security contributions; these firms accounted for sales that amounted to € 34 billion in 2005. Figures from Destatis differ considerably from those that have been provided by the Federal Network Agency, the Monopolies Commission (Monopolkommission), and the Federal Employment Agency (Bundesagentur für Arbeit, BA). In addition, detailed information has only been published for the licensed and monopolised area of the postal market.

In 2004, the total volume of sales in the market for postal services amounted to approximately € 23 billion. The market is split into two sections. One section includes courier, express, and parcel services and is completely open to competition. Sales in this section were around € 13 billion in 2004. The other section includes the provision of mail services for which companies have to acquire a licence and the provision of the 'general service' for which Deutsche Post has been granted the monopoly privilege. The sum of the sales in the licensed and privileged area was, in 2004, € 10 billion (see Table 1). During the period of liberalisation, market entrants increased their market share. Nonetheless, Deutsche Post still dominates the market. Deutsche Post is expected to hold its dominant market position even when the mail sector is completely liberalised in 2008.

**Table 1 – Sales and market share of licensed companies in the mail sector**

Despite ongoing liberalisation, Deutsche Post AG still dominates the market.

	<b>Total sales (licensed area and 'general service')</b>	<b>Total sales in the li- censed area(1)</b>	<b>Total sales of licensed companies</b>	<b>Market share of licensed companies(2)</b>	<b>Market share of licensed companies(3)</b>
<b>1999 (4)</b>	10,021	2,200	126.9	1.3%	5.8%
<b>2000 (4)</b>	10,802	2,300	173.7	1.6%	7.6%
<b>2001</b>	10,237	2,400	248.8	2.4%	10.4%
<b>2002</b>	10,200	2,400	305.5	3.0%	12.7%
<b>2003</b>	9,900	3,290	387.6	3.9%	11.8%
<b>2004</b>	10,000	3,450	531.5	5.3%	15.3%
<b>2005 (esti- mated)</b>	10,200	4,200	707.5	6.9%	16.8%

(1) Volume depends critically on the legally defined weight thresholds.

(2) in % of total sales in the licensed and monopolised ('general service') area

(3) in % of total sales in the licensed area

(4) converted from DM into €

Sources: Bundesnetzagentur, Monopolkommission

From 1998 to 2005, 1,979 applications for a licence were approved by the Federal Network Agency. Around 81% of these licences have been granted for providing postal services of a higher quality standard than those offered by the 'general service'. Of those granted a licence, 625 have already left the market. About 450 holders do not exercise the rights that they have been granted. Therefore, only around 900 companies are actually providing postal services at present.

The ratio of granted licences to one million inhabitants (licence-density) is particularly high in eastern Germany. Generally speaking, a close link exists between regional density and the regional unemployment level.

The higher the unemployment rate, the higher the ratio of approved applications per 1 million inhabitants.

According to an analysis of the market structure by the Federal Network Agency, most of companies that hold a licence are small and medium-sized enterprises (Table 2). Since 2000, the share of medium-sized companies – defined in terms of the classification scheme of the Institute for SME Research Bonn (Institut für Mittelstandsforschung Bonn, IfM) – has steadily risen. Though the weight thresholds have been successively reduced since 1998, the exploitation of economies of scale by the entrants has been restricted, as the monopoly privilege for the ‘general service’ still acts as a restraint on market volume for licence holders.

**Table 2 – Number of companies in the licensed area (without Deutsche Post) in various size classes - sales**

Share of medium-sized companies has increased.

	<b>Up to € 100,000</b>	<b>€ 100,001 to € 1,000,000</b>	<b>More than € 1,000,000</b>
<b>1998</b>	107	29	10
<b>1999</b>	337	73	19
<b>2000</b>	398	152	19
<b>2001</b>	412	164	35
<b>2002</b>	431	181	48
<b>2003</b>	525	212	62
<b>2004</b>	619	228	87
<b>2005 (1)</b>	604	252	109

(1) expected volume of sales

Source: Bundesnetzagentur

According to the BA’s figures, the number of persons in NACE section 64.1 who have to pay social-security contributions for the various social-security schemes is shown in Table 3. In addition, almost 60,000 federal civil servants who used to work for the former Federal Postal Service were, in 2005, employed in the postal sector according to information provided by Deutsche Post. Almost 3,000 of these civil servants were, in 2005, working in the service division and a further 5,000 persons have been assigned to the Postbank after the latter acquired 850 post offices from Deutsche Post in 2006. Naturally, the total number of civil servants

has steadily declined since 1995. For example, it fell from 73,157 in 2002 to 64,492 in 2005 (both figures include those employed by Postbank).

**Table 3 – Number of employees who pay social-security contributions in NACE section 64.1**

Number of employees who are liable to pay contributions to the social-security system has decreased

	1999	2000	2001	2002	2003	2004	2005
<b>Total</b>	197,049	206,066	210,488	208,152	201,229	192,291	184,140
<b>Male</b>	82,601	88,882	92,171	92,737	90,309	86,635	83,621
<b>Female</b>	114,448	117,184	118,317	115,415	110,920	105,656	100,519

Reference date: 30 June

Source: BA

From 2001 to 2005, the decline was more pronounced in NACE section 64.1 than it was in the whole economy: minus 12.5% compared to minus 5.9%.

The level of employment in fringe or minor jobs (geringfügige Beschäftigung) has, more or less, remained constant since 2004 (see Table 4). In this respect, there is no evidence to suggest that fringe workers have, to a large extent, replaced 'regular' workers in NACE section 64.1 during the process of liberalisation of the postal market.

**Table 4 – Number of fringe workers in NACE section 64.1**

Number of minor jobs has been constant over the years

2004	2005	2006
123,566	124,097	121,144

Reference month: September

Source: Bundesknappschaft

Since 2000, Deutsche Post has steadily reduced its workforce in the provision of postal service for items of post up to 1,000 grammes. On the other hand, companies that have been granted a licence have steadily created new jobs (see Table 5). Moreover, the creation of jobs at the

new competitors has not been linked to the job losses at Deutsche Post (Bundesnetzagentur, 2005: 153). In other words, employment at Deutsche Post would have decreased anyway as a result of technical progress and structural change. In this respect, liberalisation has had a positive employment effect.

**Table 5 – Employment in the licensed area of the postal market**  
 Competitors have created more than 33,000 jobs since 1998 - job losses at Deutsche Post AG would have occurred anyway

	Deutsche Post AG				Competitors			
	Total	Full-time workers	Part-time workers	Fringe workers	Total	Full-time workers	Part-time workers	Fringe workers
<b>1999</b>	177,188	n.a.	n.a.	n.a.	17,650	n.a.	n.a.	n.a.
<b>2000</b>	166,773	107,000	58,500	1,273	20,555	4,535	5,005	11,015
<b>2001</b>	162,165	104,778	56,056	1,331	21,792	5,113	3,461	13,218
<b>2002</b>	154,903	102,859	50,988	1,051	23,727	5,485	4,042	14,200
<b>2003</b>	152,446	101,464	49,896	1,086	28,328	7,119	4,528	16,681
<b>2004</b>	147,608	99,954	46,867	787	33,478	7,147	5,856	20,475

Source: Bundesnetzagentur

By law, Deutsche Post is obliged to set up an employment scheme for its civil servants every year. This scheme enables civil servants at Deutsche Post to advance up the internal career ladder as they could have done, if they had been working in the federal administration. The Federal Agency for Post and Telecommunications (Bundesanstalt für Post und Telekommunikation, BAnstPT) ratifies the employment scheme. The agency acts, in general, as arbitrator and referee in all personnel affairs that affect the federal civil servants who are working for Deutsche Post, Postbank and Deutsche Telekom.

Reliable and comparable data on pay levels in NACE section 64.1 are not available.

The Federal Network Agency is a separate higher federal authority that falls within the remit of the Federal Ministry of Economics

(Bundesministerium für Wirtschaft und Technologie, BMWI). On 13 July 2005, the Regulatory Authority for Telecommunications and Postal Services (Regulierungsbehörde für Telekommunikation und Post), which superseded the BMPT and the Federal Office for Postal Services and Telecommunications (Bundesamt für Post und Telekommunikation, BAPT), was renamed the Federal Network Agency. The Federal Network Agency's task is to develop further, by means of liberalisation and deregulation, the markets for electricity, gas, telecommunications and postal services. From 1 January 2006, it has done the same for the railway infrastructure market. As far as the postal sector is concerned, it is, in particular, responsible for ensuring fair and working competition as well as the provision of the 'general service' at affordable prizes. If a company has gained a dominant market position in the postal sector, as Deutsche Post has done, it becomes subject to a price-capping procedure conducted by the Federal Network Agency. In addition, the agency grants postal licences.

Every two years, the Monopolies Commission prepares a general analysis of, and comment on, the development of competition in Germany. Moreover, the commission has to provide a specific report on the development and the process of liberalisation in the postal market (Sondergutachten). In this respect, the Monopolies Commission has heavily criticised the fact that Deutsche Post was granted a monopoly privilege in 1998 and that this has been extended until 31 December 2007. In its latest report, it blames Deutsche Post for subsidising businesses in other fields, such as cargo transport or mergers and acquisition by profits that arise from its monopoly privilege. Indeed, sales in the monopolised area of the mail sector (around € 6.6 billion in 2004) accounted for more than two thirds of Deutsche Post's total sales (€ 9.5 billion). The return on sales has been extraordinarily high in comparison with the level that could have been expected if Deutsche Post had faced competition in this area.

For the Federal Agency for Post and Telecommunication please refer to section 2.5.

The general management of the Federal Agency for Post and Telecommunications is controlled by a board whose members represent

the federal authorities and the three companies (Deutsche Post, Postbank, and Deutsche Telekom). Among the latter are also employee representatives.

Contrary to its competitors, Deutsche Post is still exempt from paying value-added taxes for the services that it provides in the non-licensed area of the postal market. The exemption results in a competitive advantage. It effectively establishes a barrier to market-entry for other companies. In this respect, Deutsche Post has been able to sustain its dominant market position during the process of liberalisation.

#### **4 Industrial relations in the mail service sector**

The civil servants at Deutsche Post must not strike. The salaries and working times of civil servants are, in general, determined at regular intervals by the Federal Ministry of Finance (Bundesministerium für Finanzen, BMF). Therefore, collective agreements between a union and Deutsche Post do not, in principle, cover this group. Whenever a collective agreement on a wage increase is settled, Deutsche Post, however, adapts the salaries of its civil servants by lump-sum payments via, in principle, informal talks with the unions and via coordination with the BMF.

The total number of union members includes retirees, students and unemployed persons:

- United Services Union (Vereinigte Dienstleistungsgewerkschaft, ver.di) that includes the former Postal Workers' Union (Deutsche Postgewerkschaft, DPG): 210,000 members in postal services, 30,000 members in parcel and courier services (according to website information - last update on 5 July 2006 and 6 February 2006, respectively)
- Christian Union Postal Services and Telecommunication (Christliche Gewerkschaft Postservice und Telekommunikation, CGPT): 10,000 members (according to CGPT publication 'Personal' No. 6/2006)
- Association of Postal Services and Communications Employees (Kommunikationsgewerkschaft DPV, DPVKOM) that emanated

from the German Postal Services Association (Deutscher Postverband, DPV) in 1997.

Strictly speaking, no sectoral employers' association exist in NACE section 64.1 that negotiates and concludes collective agreements. Only a Working Committee in Courier, Express, Parcel and Postal Services (Sozialpolitische Arbeitsgemeinschaft KEP- und Postdienste e.V., Arge KEP- und Postdienste e.V.) has been established that represents the various affiliates of Deutsche Post World Net. It deals with issues concerning the Works Constitution Act (Betriebsverfassungsgesetz), working time arrangements, and bogus self-employment. Arge KEP- und Postdienste e.V. is member of the Confederation of the German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA).

Noteworthy collective agreements exist only at Deutsche Post. They have been settled at the firm level between the company and ver.di. It should, however, be kept in mind that the demarcations between the postal and the transport sectors have become blurred over the years. In this respect, employees who are delivering mails or parcels may be covered by sectoral agreements in transport at the regional level.

Strictly speaking, a collective agreement between a union and an employer or an employers' association only stipulates the working conditions of union members. As far as the coverage of employees is concerned, a rate cannot be delivered as the exact number of union members among the staff of Deutsche Post is unknown. Firms do, however, regularly extend the settlements to other (non-unionised) employees.

According to information that is provided by the Collective Agreement Archive of the Institute for Social and Economic Research (Wirtschafts- und Sozialwissenschaftliches Institut, WSI), collective agreements between Deutsche Post and ver.di have included amending the wage structure, wage increases or lump-sum payments (in 2006, 2004, 2002, 2000, 1999, 1998, 1997), financial participation schemes (in 2000), vocational training (in 2003, 2000, 1999, 1998), the reduction and

flexibilisation of working hours (in 1998), employment protection (in 2003, 1997), and pension schemes (in 2001).

As far as collectively agreed wages are concerned, wages for employees in eastern Germany were, according to the archive, at Deutsche Post slightly higher than in the public sector. In western Germany, salaries of Deutsche Post fall marginally below those in the public sector.

On 31 December 2006, a collective agreement between Deutsche Post and ver.di lapsed. The agreement had, since 2003, stipulated that Deutsche Post must not outsource postal deliveries.

In general, the official data base of the BA on strikes and days lost due to strikes does not distinguish between industrial conflicts that arise in various three-digit sections of the economy. However, regular strikes have not occurred at Deutsche Post. A strike that could have started in January 2007 was averted on 23 December 2006. In order to prevent the working times of civil servants being extended from 38.5 per week hours to the level of civil servants who are regularly working 41 hours in the federal administration, ver.di cancelled the collective agreement on working hours for all other employees. Ver.di feared that the extension of working hours for civil servants could jeopardise the jobs of other employees. The union proposed to safeguard jobs by settling a new agreement that includes a reduction in working hours for employees who have to pay social-security contributions. Deutsche Post and ver.di eventually agreed that the civil servants should continue to work 38.5 hours per week for at least the next six months.

In general, workers can be represented by works councils according to the Works Constitution Act if the employees wish to establish a works council. At Deutsche Post the works council also represents the civil servants who are employed by the company.

No tri-/bipartite bodies exist.

Via the Confederation of the Unions of Christian Workers in Germany (Christlicher Gewerkschaftsbund Deutschlands, CGB), the CGPT is

indirectly linked to the Confédération Européenne des Syndicats Indépendants (CESI).

Ver.di is a member of the International Transport Workers' Federation (ITF) and of the Union Network International (UNI).

DPVKOM is member of the European Federation of Public Service Employees (EUROFEDOP).

Arge KEP- und Postdienste e.V. is via the BDA indirectly linked to BUSINESSEUROPE and to International Organisation of Employers, IOE).

## **5 Selected references**

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## **6 Annex – Information Update 09.07.2007**

### **Fears of wage dumping in postal industry not justified**

*Abstract: A study of wages, working hours and holiday entitlements in the postal industry shows no signs of 'wage dumping' by Deutsche Post's main competitors. On the contrary, average wages not only exceed the minimum national wage level being called for by the United Services Union, but are in line with the wages that can be earned in comparable industries and jobs.*

On 21 May 2007, the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railways (Bundesnetzagentur) published

the findings of a study on Working conditions in the postal industry, which looked at wages and working hours in the liberalised postal industry. The study was conducted by the Scientific Institute for Communication Services (Wissenschaftliches Institut für Infrastruktur und Kommunikationsdienste, WIK). The WIK researchers show that working conditions within private operations are slightly worse than those at Deutsche Post AG. Nonetheless, the average wages paid by Deutsche Post's competitors exceed the wage level that the United Services Union (Vereinigte Dienstleistungsgewerkschaft, ver.di) wishes to see established as a cross-sectoral national minimum wage. Moreover, these wages do not significantly differ from those that are paid in comparable industries and jobs.

The study is based on a survey of 38 companies that account for 94% of the sales in the licensed area of postal services. If Deutsche Post is excluded from the sample, the remaining companies in the survey account for 45% of the competitors' total turnover in the licensed area of the postal market.

## **Background**

The provision of postal services will become completely open to private operators from 1 January 2008. Concern has arisen that liberalisation may jeopardise jobs at Deutsche Post due to 'wage dumping' by its competitors. Moreover, as a collective agreement currently exists which covers only employees at Deutsche Post, it is feared that working conditions in the postal industry will, in general, deteriorate considerably due to outsourcing.

Prior to 1998, the distribution of letters or written correspondence from one person to another had been exclusively provided by the Federal Postal Service (Deutsche Bundespost). This monopoly privilege (*Briefmonopol*) was passed to the Postdienst and then to Deutsche Post, the successors of the Federal Postal Service. In 1998, the monopoly privilege was slightly modified. Initially, it was restricted to post weighing less than 200 grams (*Exklusivlizenz*). This threshold has, since 1998, been lowered several times. At present, the monopoly privilege only extends to items of post that are distributed within the national borders and that weigh less than 50 grams. The privilege can be circumvented if the postal service of a new entrant is of a higher quality than the 'general service' (*Universaldienst*) provided by Deutsche Post; for instance, the monopoly does not apply to post that is delivered on the same day that it is collected. The federal state defines the standards and terms of the 'general service'.

However, since 1998 private operators were only able to enter the postal services market for products that exceed the weight threshold under certain conditions. For items of mail that weigh up to 1,000 grams, companies have had to apply for a licence from the Federal Network Agency. The application may be approved if the applicant can demonstrate its capability of providing the service, does not jeopardise public safety and abides by the 'normal' working conditions that prevail in the licensed sector.

### **Different working conditions in postal industry**

In general, the provision of postal services tends to be a low-wage sector. The majority of tasks performed by employees, such as mail delivery, do not require medium or high skills. Nonetheless, average wages for jobs in the postal industry that are paid by Deutsche Post, its subcontractors and its competitors exceed the hourly wage level of €7.50 which ver.di wishes to see established as a binding national minimum wage. Blue-collar workers at Deutsche Post who were employed before 1 January 2001, as well as white-collar workers who were employed before 1 September 2003, receive average hourly wage rates that are even higher at €11.40. This is the result of a collective agreement between ver.di and Deutsche Post. Wages earned by employees at Deutsche Post's competitors amount, on average, to three quarters of the average wage level at Deutsche Post. This is, however, slightly above the wage level which is paid by companies that run post offices and transport services as subcontractors of Deutsche Post (Table 1).

Weekly working hours do not differ significantly between Deutsche Post and its competitors, while the holiday entitlements of employees at the latter are, on average, considerably lower. They do, however, exceed the minimum entitlement that is required by law.

<b>Table 1: Selected indicators of working conditions in postal services, 2007</b>			
Selected indicators of working conditions in postal services, 2007			
	<b>Deutsche Post</b>	<b>Deutsche Post's subcontractors</b>	<b>Deutsche Post's competitors</b>
<b>Average hourly wage (in €)</b>	11.40	8.00	8.44
<b>Weekly working hours</b>	38.5	43.0	38.8
<b>Annual holiday entitlement (number of days)</b>	28.0	28.0	22.9

Source: WIK, 2007

## No indication of ‘wage dumping’

According to a judicial expertise to which the WIK study refers, the wages of Deutsche Post cannot be used to argue that the lower wages paid by competing companies are instances of ‘wage dumping’ and do not abide by the ‘normal’ working conditions in postal services. They are, rather, an indication of rent sharing. Deutsche Post gains a considerable share of its returns in the currently monopolised area of postal services and can, therefore, afford to pay higher wages. In addition, the nationwide uniform wages at Deutsche Post are not only exceptional, but also distort wage structures, particularly in low-income regions.

Therefore, wages paid by subcontractors and competitors have to be compared with wages that are earned in comparable industries or in comparable jobs. As entrants to the postal services market predominantly operate locally, the spatial wage dispersion in selected industries was used for the comparison. In this respect, the wage differentials among licence holders in the postal industry do not seem to be unusual (Table 2).

**Table 2: Spatial wage dispersion in postal industry and selected comparable sectors, 2007 (average hourly wages in €)**

Spatial wage dispersion in postal industry and selected comparable sectors, 2007  
(average hourly wages in €).

Sector	Minimum (1)	Maximum (2)	Mean
<b>Deutsche Post</b>	<b>11.40</b>		
<b>Competitors in postal services (3)</b>	6.54	20.20	8.44
<b>Printing and service activities related to printing (NACE DE 22.20)</b>	6.03	23.70	18.04
<b>Retail sale in non-specialised stores (NACE G 52.10)</b>	7.92	17.35	12.86
<b>Retail sale not in stores (NACE G 52.60)</b>	5.41	23.22	14.95
<b>Hotels and restaurants (NACE H 55)</b>	4.97	12.17	8.28
<b>Activities of other transport agencies (NACE I 63.40)</b>	7.57	18.14	13.22
<b>Computer and related activities (NACE K 72)</b>	5.95	30.41	25.15

Notes: (1) Average sectoral wage in the region with the lowest sectoral wage level.

(2) Average sectoral wage in the region with the highest sectoral wage level.

(3) The minimum wage level of Deutsche Post's competitors is determined by the average wage of the company that reported the lowest average wage. The maximum refers to the average wage reported by the company with the highest average wage.

Source: WIK, 2007

### **Commentary**

When monopolised industries, such as the provision of postal services, are liberalised, wages and other aspects of working conditions at the former monopolists come under scrutiny due to pressure from increased competition. In general, consumers can benefit from both lower prices and higher-quality products and services. Therefore, whether the decline in wages or in the number of employees at Deutsche Post, which have been brought about by competition and outsourcing, can be accepted depends on the benchmark that is used. In this respect, the full liberalisation of postal services will rather result in a normalisation of wages and working conditions so that local labour market conditions will be reflected more appropriately.

Oliver Stettes

## **7 Annex – Information Update 21.12.2007**

### **Unions push for minimum wage in the postal sector**

*At the end of October 2007, the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railways released recent figures on the number of employees working in the postal sector. The publication of such figures once again sparked a fierce debate among the social partners on the introduction of minimum wages in the sector. However, the Social Democratic Party and the Confederation of German Trade Unions strongly call for minimum wages to be introduced.*

On 31 October 2007, the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railways (Bundesnetzagentur) issued a press release providing information on the number of employees in the postal sector. The preliminary results of its survey show that the former

monopoly holder, Deutsche Post AG, employs 162,938 persons. Of these workers, 122,437 work as drivers, delivery personnel or sorters. Deutsche Post's competitors employ around 40,000 workers. This latter figure is expected to rise, since 200 questionnaires have yet to be returned.

## **Background**

In August 2007, the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) and its coalition partner, the Christian Democratic Union (Christlich Demokratische Union, CDU), reached an agreement on introducing minimum wages in the postal sector. The coalition partners agreed to declare the current collective agreement on minimum wages concluded by the Postal Services Employers' Association (Arbeitgeberverband Postdienste e.V., AGV Postdienste) and the United Services Union (Vereinte Dienstleistungsgewerkschaft, ver.di) as generally binding for the whole sector. Moreover, it was agreed that the details of this move would be discussed in the autumn of 2007.

However, as a result of the newly released figures from the Federal Network Agency, certain groups within CDU reconsidered the introduction of minimum wages in the postal sector. CDU representatives called into question the assertion that those companies who are bound by the aforementioned collective wage agreement would employ 50% of all workers in the postal sector. In fact, the figures indicate that employers bound by the current framework agreement on minimum wages would not employ 50% of all employees in the sector. The latter element is considered to be a criterion to declare collective agreements as generally binding for a whole sector. However, based on the figures presented, CDU argues that the agreement on minimum wages should not be declared generally binding for the entire postal sector.

In this case, calculating the number of workers in the sector is considered to be crucial, because two out of the three possible legislative procedures to introduce minimum wages are linked to collective bargaining coverage in the sector.

## **Legal options to introduce minimum wages**

From a legislative point of view, there are three possible ways to introduce minimum wages.

1. Section 5 of the 1949 Collective Bargaining Act (*Tarifvertragsgesetz*, TVG) stipulates that employer organisations and trade unions can conclude a collective agreement on minimum wages. The social partners have to bring this collective agreement on minimum wages before the committee on collective bargaining (*Tarifausschuss*). This committee consists of three trade union and three employer representatives from different economic sectors. If a minimum wage is to be introduced by this procedure, at least four of the six committee members must vote in favour of it. Only after a collective agreement has been approved in this way, it can be declared generally binding for the whole sector. Social partners in all economic sectors can make use of this option as long as the employers who are bound by the terms and conditions of the sectoral collective agreement employ at least 50% of all employees in the sector. This latter criterion can be disregarded in cases in which matters of public concern are affected.
2. The 1996 Posted Workers Act (*Arbeitnehmer-Entsendegesetz*, AEntG) enables the Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales, BMAS) to extend an already generally binding collective (wage) agreement to the whole sector. However, the minimum wages have to be agreed on independently by the social partners through collective wage agreements in advance of their extension to the whole sector.
3. The 1952 Act on Minimum Working Standards (*Mindestarbeitsbedingungsgesetz*, MiArbG) stipulates that a committee can recommend the introduction of minimum wages to the government. The government then has the option of adopting this recommendation.

The first two options either directly or indirectly link the introduction of minimum wages to a figure of 50% of employees being covered by a collective agreement in the relevant sector.

After heated debates in the political arena, the coalition partners failed to reach an agreement on the introduction of minimum wages in the postal

sector in the autumn of 2007. The SPD Chair, Kurt Beck, accused CDU of not keeping its word. In a recent news article, SPD reiterated its support for the introduction of minimum wages in the postal sector, as agreed by the government at a special cabinet meeting in Meseberg in the state of Saxony-Anhalt on 23–24 August 2007. CDU has, however, countered its coalition partner's reproach by stating that it had only agreed to declare the collective agreement on minimum wages concluded by AGV Postdienste and ver.di as generally binding if the agreement met the precondition stipulated by the Collective Bargaining Act that 50% of employees were covered by the collective agreement. This latter condition would not be fulfilled by the relevant collective agreement. Finally, in a subsequent press statement, CDU called on trade unions and employer organisations working in the postal sector to become proactive.

However, the Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, DGB) recently presented a proposal that would even allow for the introduction of minimum wages in the postal sector without necessarily considering the coverage rates of the sectoral collective agreements.

### **Position of social partners**

In general, DGB supports the introduction of minimum wages in the postal sector. DGB declared that minimum wages in the postal sector could be introduced through the Posted Workers' Act, as the government had already agreed to this in Meseberg in August 2007. According to an article by DGB, the 50% quota concerning the collective bargaining coverage rate would, in this case, become insignificant.

Another option for the introduction of minimum wages in the postal sector is contained within DGB's latest proposal to revise the 1952 Act on Minimum Working Standards. The proposal seeks to establish a steering committee that would, on the whole, be comprised of trade union and employer representatives. The social partners would apply for a recommendation for minimum wages to be introduced or for minimum working standards to be established in their sector. The committee would, in turn, stipulate preconditions or define relevant criteria to be

considered in the introduction of any minimum wages or the establishment of minimum working standards in any sector under consideration. On the basis of such criteria, the committee would develop a recommendation for presentation to the government.

DGB's proposal, furthermore, sets out that – if the steering committee is not able to provide a recommendation – BMAS should be entitled to establish an expert committee to deal with the issue. The expert committee could also be set up immediately, if the social partners jointly agreed to put forward a recommendation. However, the government would still have the final say in approving or rejecting the recommendation of either committee.

With regard to the postal sector, either the steering or the expert committee could also recommend the introduction of minimum wages without having to adhere to the requirement that collective agreement coverage rates are at or above 50%.

The German Confederation of Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA), on the other hand, underlined in a statement to the press the importance of assessing the number of employees in the postal sector, as provided by the Federal Network Agency. The Chair of BDA, Dieter Hundt, stated that these figures indicated that the current framework agreement on minimum wages concluded by AGV Postdienste and ver.di fell short of an important criterion stipulated by the Collective Bargaining Act – that is, the 50% collective bargaining coverage criterion. Therefore, this collective agreement should not be extended to all postal operators in the sector. BDA stated that a possible solution could be based on another collective agreement that covers all the relevant social partners. The latter could be declared as generally binding for the whole sector via the Collective Bargaining Act.

It should be noted that, in September 2007, the Employers' Association of the New Postal and Delivery Services (Arbeitgeberverband Neue Brief- und Zustelldienste, AGV neue BuZ) was set up. This new employer organisation stated that about 35 of its members are

competing with *Deutsche Post*. As expected, AGV neue BuZ is trying to negotiate a collective agreement for its members.

Sandra Vogel

## 8 Annex - Questionnaire

### 1. The postal sector in general: basic data and trends

Keeping in mind the postal sector in its more general and inclusive definition (that is including any kind of services provided by postal operators, such as financial or insurance services), please indicate:

- a) Current structure and services in the sector
  1. The current structure of the sector in its broader definition: which is the range of services provided by postal operators? Has some kind of functional specialisation between providers been introduced?
  2. The number and characteristics of companies operating in the sector at large, distinguishing them according to their size, legal and property status (state-owned/ public limited/ private companies, etc.), the kind of services provided, their market share.
- b) Trends and developments in the sector since 1980s
  1. If and when there have been legislative reforms affecting the traditional postal services sector since the 1980s and the main impact of these changes.
  2. If and when the sector has been involved in liberalisation processes putting an end to monopoly positions since the 1980s and the main impact of these processes.
  3. The evolution of employment in the sector, globally and according to the main relevant subdivisions in which the sector is articulated, since the mid-90s and the expected future prospects.
  4. Any relevant other change affecting the industrial relations in the sector.

### 2. The mail services sector: structure and change

Focusing now on the core business of the postal sector (that is on the activities related to the collection, classification, transport and distribution

of postal items, NACE 64.1, rev. 1.1 2002), NCs should provide a brief account of the present situation of the sector and of any recent changes which have affected it. In particular, please illustrate:

1. If and when the sector has been involved in privatisation processes or in the contractualisation of employment relationships (that is the shift from public law employment contracts to private law employment contracts and collective bargaining coverage) since the 1980s and the main impact of these processes.
2. If and when the sector has been involved in restructuring processes (offices closures, automation, reorganisation of production, outsourcing and contracting out, etc.) since the 1980s and the main consequences of these processes on employment (redundancies, recourse to different kind of contracts, etc.) and on work organisation (changes in the skills levels required, training; recourse to functional flexibility, longer operating hours, shift work, etc.).
3. The current structure of the mail services sector: the number and characteristics of companies operating in the sector, distinguishing them according to their size, legal and property status (state-owned/ public limited/ private companies, etc.), the kind of services provided, their market share.
4. The sectoral employment levels and developments (possibly broken down by gender, education and skill level) since the mid-90s.
5. The legal status of employees.
6. The sectoral pay levels and developments compared to national averages, inflation and productivity growth (distinguishing between public and private operators) since the mid-90s.
7. The presence of any regulatory authorities or agencies with a brief explanation of their entitlements (price setting, issue of licenses, etc.).
8. The involvement of the social partners in the sectoral regulatory framework (social partners' representatives sitting in observatories, committees which oversee the management and developments of public utilities, etc).
9. Any other feature important to seize the peculiarities and the main problems to be solved in the sector.

### 3. Industrial relations in the mail service sector

Continuing to concentrate on the core businesses of the postal sector (NACE 64.1, rev. 1.1 2002), NCs should provide an overview of industrial relations in the mail service sector. In particular, please indicate:

1. Possible limitations or peculiarities with respect to the right to association, collective bargaining and strike.
2. The structure of trade union representation: number and characteristics of the unions which operate in the sector, union density. In particular: is union representation fragmented? Are there rivalries between the trade unions? Are there differences between public and private operators?
3. The structure of employer representation: are there sectoral employer/trade associations? What is the number of companies affiliated to these associations, and the number of employees of the affiliated companies? Has there been any major reorganisation of employers' associations as a consequence of the changes affecting the sector?
4. The structure of collective bargaining: at what level are collective agreements concluded? National/sectoral? Decentralised? Both, with different scope? Other? Are there differences between public and private operators?
5. The coverage of collective bargaining in terms of companies and employees. Are there non-union companies or cases of opting out from employers' association and multi-employer bargaining? Other? Are there differences between public and private operators?
6. Issues dealt with in collective bargaining: working time, training and career developments, equal opportunities, performance-related pay, conciliation between work and personal life, others. Are there differences between public and private operators.
7. The impact of outsourcing/contracting out on collective bargaining coverage and working conditions.
8. The recourse to industrial conflict: data on number of strikes, worker participation and day lost over the last decade. Has recourse to conflict intensified as a consequence of the changes affecting the sector? Are there conflict resolution practices specific to the sector or to individual companies? Are there differences between public and private operators?

9. The presence of participatory practices at workplace level, either through the involvement of employees' representatives or trade unions, or the implementation of direct participation. Instances of financial participation (ESOP). Are there differences between public and private operators?
10. Any instances of social dialogue at sectoral level, like the conclusion of agreements or the presence of tri- bipartite bodies concerned with employment and labour relations issues.
11. The membership of national actors in European-level cross-industry and sectoral organisations.