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## **Continuous vocational training and collective bargaining in the EU**

The case of Germany

## **Content**

### **Abstract**

- 1 Main features of the Continuous Vocational Training System**
- 2 The role of social dialogue and collective bargaining in the CVT system**
- 3 Collective Bargaining on CVT**
- 4 Main positions of social partners on CVT**
- 5 Commentary**
- 6 Annex - Questionnaire**

## **Abstract**

***The regulation of continuous vocational training (CVT) is highly dispersed and only affects a small proportion of CVT activities in Germany. Collective agreements are of minor significance for the incidence of CVT. Over the last years, agreements on CVT have been concluded in some sectors that cover a significant number of employees. They, however, do not provide an individual right to participate in training programmes that are funded by the employer. Whilst unions have called for more extensive legislation to promote CVT activities, employers' associations oppose any claims for more extensive regulation.***

## **1 Main features of the national Continuous Vocational Training system**

### **1.1 General Features**

Continuous vocational training and life-long learning are guided by the principles of subsidiarity and plurality. Therefore, a national system of continuous vocational training that is jointly and statutorily regulated and that gives all employees an individual right to attend training programmes does not exist. Regulations concerning access to such programmes, the recognition of grades or titles, the approval of providers, and the monitoring of quality are highly dispersed.

- The most important laws at the federal level are the Vocational Training Act (*Berufsbildungsgesetz*), the Craft Trades Law (*Handwerksordnung*), and the Social Security Code III (*Sozialgesetzbuch III*). The latter only applies to persons who are unemployed or who have already received notice that they will be made redundant.
- In 12 of the 16 federal states (Bundesländer) employees have the right to leave their workplace for further education (*Bildungsurlaubsgesetze, Arbeitnehmer-Freistellungsgesetze*). The duration of the educational leave is, usually, restricted to a maximum of five days per year.
- Moreover, the Works Constitution Act (*Betriebsverfassungsgesetz*) provides works councils with a variety of consultation and codetermination competencies in the area of training. They have, for example, full codetermination rights when measures concerning skill formation are required in order to cope with new technologies and/or new forms of work organisation.

According to the 9th Report on Continuous Vocational Training (Berichtssystem Weiterbildung IX) – henceforth 9th CVT – training provided by employers amounted to 51% of all reported training placements in 2003 (see Table 1). Commercial providers of adult education represented 9% of such cases. Programmes that were run by the chambers of commerce and the chambers of trade were attended in 8% of the cases. Other providers were of minor significance. This applies, amongst others, to universities, public adult education centres (*Volkshochschulen*), employers' associations, and unions. The report is based on a representative survey of approximately 7,000 respondents aged between 19 and 64.

**Table 1 – Reported cases by supplier of continuous vocational training courses - in % (2003)**

*Training provided by employers is the most significant.*

| Provider                                | Share |
|---|-------|
| Employer/establishment                  | 51    |
| Commercial supplier in adult education  | 9     |
| Chamber of trade or chamber of commerce | 8     |
| Occupational organisation               | 5     |

*Those attending may have participated in several programmes. Therefore, the number of reported training placements may exceed the total number of trained persons. The year 2003 is the most recent reference date.*

*Source: 9th CVT*

The 9th CVT also shows that, in 2003, approximately one out of four respondents attended a training course. Programmes designed to provide the skills necessary to adjust to new tasks in a current job were the most important reason for participating in the course. This applies to 10% of all respondents.

Several surveys, however, show that informal modes of CVT, such as 'learning by doing' and media-assisted learning, are even more important for employees' skill formation than formal CVT courses.

- Two thirds of the 7,000 respondents in the 9th CVT also acquired new skills via informal means.

- According to the CVT survey by the Cologne Institute of Economic Research (Institut der deutschen Wirtschaft Köln, IW Köln), which is conducted every three years, approximately 80% of companies in Germany had in place informal mechanisms of CVT in 2004, whereas internal or external training courses were provided by only 64% and 69%, respectively, of the total number of firms.

Between 2001 and 2006, the total number of participants in training programmes financed by the Federal Employment Agency (Bundesagentur für Arbeit, BA) dropped from approximately 352,000 to 119,000. The decline was a result, in particular, of the so-called First Law on Modern Services on the Labour Market (*Erstes Gesetz für Moderne Dienstleistungen am Arbeitsmarkt*), which came into effect in January 2003. This Law restricted the access to long-term training programmes. The extensive use of these training policies by the BA had turned out to be both inefficient and ineffective.

## 1.2 The funding of the CVT system

Due to data restrictions, an overview of the estimated expenditures for CVT that are differentiated by funding source can only be given by drawing on various sources of information. Results are presented in Table 2. The reference dates for the various sources differ.

In general, public authorities are of minor importance with respect to the direct funding of CVT programmes (see Table 2). Direct costs for CVT borne by the participant, however, can be deducted from his/her income that is liable for taxation. The same applies to the expenditures of the firm. Moreover, persons who start a CVT scheme that leads to a publicly recognised certification can apply to receive a monthly allowance and a subsidised loan (*MeisterBAföG*). This holds for CVT programmes that are regulated by, in particular, the Vocational Training Act or the Craft Trade Law. In 2007, the coalition government decided to establish an additional programme of CVT funding (*Weiterbildungssparen*). It enables trainees to receive a grant that is partly financed by resources from the European Social Funds and that can amount to a maximum of €154 per year. In order to be eligible for the grant, recipients must invest at least as much money as they receive from the programme. The grant is restricted to persons whose income does not exceed a specific threshold.

Subsidised loans can, however, be granted to all applicants irrespective of the level of their annual income.

**Table 2 – Expenses for formal and informal CVT by the source of funding – in billion €**

*Employers bear most of the costs.*

| Source                              | Direct costs <sup>1</sup> | Indirect costs <sup>2</sup> | Total |
|-------------------------------------|---------------------------|-----------------------------|-------|
| Private and public companies (2004) | 9.1                       | 17.6                        | 26.8  |
| Participants (2002)                 | 10.3                      | 3.5                         | 13.8  |
| Public authorities (2003)           | 2.1                       | -                           | 2.1   |
| Federal Employment Agency (2004)    | 1.9                       | 2.2                         | 4.1   |

*1 Fees, expenses for training staff etc.*

*2 Subsistence allowances, opportunity costs due to educational leave etc*

*Source: Weiß, 2007*

Since 2003, the BA has issued vouchers to recipients of unemployment benefits. These vouchers can be redeemed at approved suppliers of training programmes. As mentioned above, the regulations relating to these vouchers has restricted access to them; prior to 2003, they were easier to obtain.

## **2 The role of social dialogue and collective bargaining in the CVT system**

With respect to regulated CVT schemes that lead to publicly recognised qualifications, committees (*Bildungsausschüsse*) exist at the local, regional, and federal levels. They comprise, in equal number, delegates from unions and/or occupational associations as well as representatives from the employers' association. In addition, teachers from publicly funded schools represent the interests of the state in these bodies. Therefore, the committees can be regarded as tripartite institutions; teachers do not, however, have any voting rights. These organisations develop the content of the regulations for those CVT tracks that are based on the Vocational Training Act or the Crafts Trade Law. Although public authorities, ultimately, issue the ordinances, unions, occupational

organisations and the employers' association are strongly involved in the process of stipulating standards or guidelines for this specific area of CVT. It should, however, be borne in mind that the regulated CVT programmes cover only a minor fraction of all CVT activities in Germany.

Quantitative evidence on the relative importance of collective bargaining for CVT is rather rare. The 9th CVT only provides some data on educational leave. Amongst those surveyed employees who had actually been given time off work for educational purposes, one third, in 2003, referred to an existing works agreement (*Betriebsvereinbarung*). Only one in every nine employees stated that he/she benefited from clauses in a collective agreement. The proportion of employees who referred to the legislation on educational leave was 16%. This latter figure has dropped by 10 percentage points since 1994. Another caveat applies. The proportion of employees in Germany who, it is estimated, are allowed by their companies to attend a formal external training programme during their working time is, all in all, rather small. In 2003, this proportion amounted to only 10%. Therefore, both collective and works agreements appear to be of minor significance. This is especially true when comparisons are made to the initiatives undertaken by individual employees and/or employers. Results of econometric studies (e.g. see additional references No. 2, 3 and 6) suggest that the incidence and coverage of CVT is higher in establishments with a works council. This may also hold for establishments that adhere to a collective agreement.

The amendment of the Works Constitution Act in 2001 extended works councils' codetermination rights with respect to CVT; this has not, however, had any significant impact on the coverage and incidence of CVT. No information is available on the impact of European works councils. Finally, empirical evidence also suggests that being integrated into a group or holding structure positively affects the incidence and coverage of CVT.

### 3 Collective Bargaining on CVT

#### 3.1 Significance of collective agreements in CVT

In general, collective agreements on CVT only exist in a few industries (see Table 3). The most important agreements, which cover a notable number of employees, have been concluded over the last five years. Moreover, firm-specific collective agreements have been settled in a few companies. Some other settlements on the sectoral level that were already concluded prior to 2000 cover only employees in selected districts of smaller sectors, such as some craft industries (see, for further details, for example Bispinck 2000).

**Table 3 – Collective agreement clauses about CVT- selection of industries**

*Over the last five years collective agreements on CVT have been concluded in some significant industries, such as the chemical and the metal-working/electrical industries.*

| Sector                                      | Year   | Number of covered workers / coverage rate in % |
|---|--|--|
| Manufacture of pencils                      | 2006   | n.a. <sup>1</sup>                              |
| Chemical industry                           | 2003   | Approx. 550,000 <sup>2</sup>                   |
| Manufacture of cigarettes                   | 1976   | n.a.   |
| Printing                                    | 1990   | Approx. 200,000 <sup>3</sup>                   |
| Agriculture/forestry                        | 1995   | n.a.   |
| Metalworking/electrical industry            | 2001 (only Baden-Wuerttemberg), 2006 (other districts) | Approx. 1,800,000 <sup>4</sup>                 |
| Public Sector (Federal and municipal level) | 2005   | Approx. 1,300,000 <sup>5</sup>                 |
| Textile and apparel                         | 1997 (amended in 2004)                                 | 50% <sup>6</sup>                               |
| Private insurance                           | 2007   | Approx. 193,000 <sup>7</sup>                   |

<sup>1</sup> not available, <sup>2</sup> Source: German Federation of Chemicals Employers' Associations (Bundesarbeitgeberverband Chemie, BAVC) - incl. non-union members, <sup>3</sup> Source: EIRO information update DE0507204F, <sup>4</sup> Source: Gesamtmetall – incl. non-union members, <sup>5</sup> Source: United Services Union (Vereinigte Dienstleistungsgewerkschaft, ver.di), <sup>6</sup> Source: Bahn Müller/Fischbach/Jentges 2006, <sup>7</sup> Source: EIRO information update DE0602202N

Source: Collective Agreement Archive of the Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA)

Information on how many establishments or employees actually make use of the CVT clauses is even sparser than data on coverage rates and the relative importance of collective bargaining concerning CVT.

- According to Bahnmüller, Fischbach and Jentges, the number of employees involved on a CVT scheme that is based on the collective agreement in textile and apparel is rather low (1,500 employees per annum out of approx. 69,000 employees covered by the agreement in 2003) and has remained constant over the years. The article summarises the results of a survey in the textile and apparel industry that was conducted in 2005 by the Institute for Labour, Technology and Culture (Forschungsinstitut für Arbeit, Technik und Kultur, FATK). Despite the relatively low number of employees involved, the survey shows that almost half of the responding firms have made use of the clauses in the CVT agreement since the agreement came into effect in 1997.
- Another survey by the FATK among establishments in the metal-working/electrical industry that are located in Baden-Wuerttemberg reveals that almost all companies abide, at least partly, by the various standards of the CVT agreement. With respect to the various standards the application rate among the respondents ranges between 16% and 96%.

The majority of the respondents in both surveys stated that, in general, the influence of the collective standards on the practice of CVT at the company level was rather weak. This was true for responses by both works councils and managers. Nonetheless, the awareness of the importance of CVT has increased.

### 3.2 Content of collective agreements on CVT

In general, collective agreements concerning CVT apply to every employee who is covered by the agreement irrespective of his/her position in the organisation or the worker's qualifications. Moreover, they do not stipulate specific modes of CVT, but often only provide general standards relating to information, consultation and decision-making procedures at the firm level. Strictly speaking, most collective agreements do not introduce an effective individual right that allows employees to attend training courses during working time at the expense of the employer. The

likelihood that the employer bears the expenses of the CVT scheme is higher if the CVT programme is more aligned with the specific qualification requirements of the firm.

With respect to a few agreements that are registered in Table 3, some important clauses are briefly described below:

- Chemical industry: CVT programmes may be defined by voluntary works agreements. The employer can identify existing qualifications and future skill requirements. The needs of specific groups, such as older workers or workers on parental leave, should be taken into consideration. The employer and employee can settle a training agreement. Cost-sharing rules depend on the returns that accrue to the employer and the employee, respectively. The provision of information on, and consultation over, programmes via the Foundation for Further Training (Weiterbildungsstiftung) that was, in 1993, jointly established by the Mining, Chemicals, and Energy Industrial Union (Industriegewerkschaft Bergbau, Chemie, Energie, IG BCE) and BAVC.
- Printing: Every year the employer consults the works council about the skill requirements as well as the type and the volume of CVT. The needs of employees whose qualification have been adversely affected by technical progress or organisational change should be considered. A proportion of the resources for CVT that is as high as the share of female workers should be exclusively reserved for CVT for females. The employer bears all the costs.
- Metal-working/electrical industry: Once a year, employers and works councils jointly identify the company's needs for continuous training. If continuous training is relevant for the employee's current assignment or if he/she has to qualify for an equivalent (or more demanding) assignment as a result of company restructuring, the employer has to bear the costs of the continuous training. If the employee undertakes continuous training on his or her own initiative to qualify for a more senior post, the employee has to incur part of the costs: only half of the time required for the training will be counted as working time, the other half is taken from the employee's leisure time. At the firm level, a bipartite committee can be established to deal with disputes.
- Textile and apparel: An individual worker can apply for educational leave. The employer can deny a worker's request for participating in CVT if 2% or more of the workforce are already on educational leave. If the threshold is not exceeded and a request has been refused, the

employers' association and the union have to be involved to clarify the request. The duration of paid leave is limited to a maximum of five days. Employers contribute €12.50 per employee annually into a CVT fund that finances the CVT programmes. One half of the resources are reserved for proposals by the employer. Employees and the works council can make proposals that are funded by the other half. A joint committee stipulates the conditions for funding CVT schemes and approves the programmes.

It should be finally noted that framework agreements on employment conditions (*Manteltarifverträge*) may contain some clauses that are related to CVT issues, too. This also holds for supplementary agreements that aim to safeguard jeopardised jobs or that seek to attenuate any adverse effects that a restructuring of work or the implementation of new technologies may have on employees (*Ergänzungstarifverträge, Rationalisierungsschutzabkommen*).

## **4 Main positions of the social partners on CVT**

### **4.1 Unions**

In several resolutions, the Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, DGB) has emphasised that investment in education and training should be higher in order to preserve wealth and competitiveness. The DGB also stressed that initial education and initial vocational training should become more aligned with CVT and vice versa. Moreover, the unions' umbrella organisation heavily criticised the relatively low participation rate of, in particular, females, older workers, migrants and low-skilled persons on such schemes. Finally, the DGB declared in its latest resolution from 5 July 2005 that the decreasing expenditures of the BA for long-term CVT after 2003 have resulted in job losses at CVT providers.

In order to promote CVT in Germany, the DGB is pursuing a two-step approach (in addition to policies regulated by the Social Security Code):

- CVT should become more extensively integrated into agreements between unions and the employers' association as well as into works

agreements. These settlements should contain regulations that aim to improve the access of those workers to CVT whose participation rate is currently low. Moreover, working-time arrangements should be developed that enable the employee to acquire the skills that are needed. The employers should, in general, bear all the costs for programmes that are geared towards meeting the specific requirements of the workplace or current position in the firm.

- As an individual right to participate in CVT does not exist at the federal level, a legal framework for CVT (*Bundesrahmengesetz für Weiterbildung*) should be implemented. This should be accompanied by an amendment of the Vocational Training Act and by an extension of the individual right to educational leave to states, or *Länder*, that, at the moment, do not have any relevant legislation in place. The initiatives aim, in particular, to facilitate employees' access to further general education and CVT. Moreover, they should raise the transparency of CVT by, among other policies, stipulating standards for both programmes and providers. They should, furthermore, establish a quality monitoring system and, in general, allow the acquired skills to be certified.

The DGB also claims that providers of training programmes for unemployed persons that are financed by the BA have to adhere to minimum standards stipulated by collective agreements.

#### **4.2 Employers' associations**

The BDA emphasises the importance of CVT for the competitiveness of firms and the employability of workers, too. CVT is regarded as an investment. Therefore, it should be orientated towards work processes, remain within the domain of the individual employee and the firm, and the costs should be shared depending on how the benefits of the CVT are distributed between employer and employee. In this respect, the BDA stresses the efforts that firms have already undertaken both to provide and fund CVT. With regard to CVT financed by the BA, the BDA has criticised these programmes for failing to promote, in an effective way, the integration of unemployed persons into the labour market.

The position of the employers' umbrella association, therefore, differs considerably from that of the DGB:

- According to the BDA, the promotion of CVT does not require comprehensive legislation. Therefore, the BDA strictly opposes any proposals to implement a legal framework for CVT. Moreover, the laws relating to educational leave that already exist in 12 states should be abolished. Otherwise, the employer will have to continue to incur the costs of paying employees on training courses even though the returns from the further training or education often accrue exclusively to the employee. In order to raise the incentive and willingness of individual persons to participate in rather general CVT or further education, loans should be made available to applicants and the accumulation of skills may, in general, be integrated into the concept and regulation of asset accumulation. Both the monitoring of quality standards and the certification of skills acquired through CVT schemes should follow a market-orientated approach and, therefore, should not be stipulated by the public authorities. In short, the BDA doubts that the necessary objective criteria for state intervention exist.
- CVT should be geared towards the skill requirements of a specific position. Therefore, if the CVT is sponsored by the employer, only the firm should have the ultimate authority to decide who should be trained and the extent and content of the necessary training. Nonetheless, management should liaise with the affected employees extensively and should respect the co-determination rights of the works councils. Collective agreements on CVT may be concluded and clauses may be inserted into framework agreements. In these cases, they should, however, be limited to the provision of procedural standards, such as for information and consultation.

The BDA acknowledges that, in certain situations, training programmes may contribute to an improvement in the labour-market prospects of unemployed persons. Programmes funded by the BA should follow a market-orientated approach, such as the issuing of vouchers, and should be geared more towards an effective integration of unemployed persons into employment.

## 5 Commentary

Globalisation, technical progress and organisational change not only raise the skill requirements for employees in developed countries, but may also devalue existing qualifications and knowledge. Therefore, CVT and the concept of life-long learning are essential if firms are to remain competitive and if employees are to remain employable.

CVT is a private investment, the returns from which mainly accrue to the employer and the individual worker. The level of the benefits depends on the circumstances within the company as well as on the conditions in the firm's environment. Therefore, decisions about who participates, what the appropriate training is and what cost-sharing rule applies should eventually be made by management and affected employees only. The higher the firm's stake in bearing the costs of CVT is, the higher the management's weight should be in decision-making process.

Collective agreements, however, can contribute to an increase in the participation rate in CVT provided the clauses only refer to procedural rules and do not establish an individual right. Firstly, they can increase the awareness of the need for CVT for both the firm and the employee. Secondly, by stipulating procedural rules, the employer and the employee (or the works council) can more easily conclude an agreement that represents a win-win solution for all the involved parties. Thirdly, they can pave the way for more extensive inter-firm coordination of CVT activities. This should, in turn, lead to a more efficient provision of CVT by, in particular, small companies. In this regard, the social partners can negotiate the criteria relating to the accreditation and evaluation of programmes and providers or they can establish bipartite agencies that give advice to both firms and employees.

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## **6 Annex - Questionnaire**

### **6.1 Main features of the national Continuous Vocational Training system**

The main features of the CVT system:

- Here please concentrate on statutory legislation and public policies. Please, also clarify whether and how statutory provisions in your country establish CVT as an individual right (for instance, through provisions on statutory leave periods that adults can use to engage in further education initiatives).
- Main actors (public authorities, education organisation, special bodies, representative organisations, including the social partners) and public/private balance in terms of providers of CVT.
- Structure: a single national system; different systems along regional/territorial, sectoral, occupational lines.
- Outcomes: types of CVT programmes, target groups, indicators of participation to CVT (such as number of participants, participation rates, by target groups if relevant).

The funding of the CVT system:

- Public/private balance (possibly disaggregating funding by private employers, individuals, other sources, such as collective bipartite funds).
- The presence of public incentives to support private investment in CVT.
- The role of the European Social Fund.

### **6.2 The role of social dialogue and collective bargaining in the CVT system**

What is the role of the social partners in devising the CVT system (devising programmes and initiatives, setting guidelines and standards, etc.)? Since 2002, have any relevant changes or developments taken place?

What is the role of the social partners in the governance of the CVT system (managing CVT initiatives, monitoring, auditing and assessment, participating in bodies raising and/or monitoring funds dedicated to CVT, etc.)? Since 2002, have any relevant changes or developments taken place?

In relation to legislative provisions, what is the role of social dialogue and collective bargaining in CVT in your country, specifying the relative importance of the different bargaining levels? Since 2002, have any relevant changes or developments taken place?

Please consider all the following levels, as long as they are relevant for CVT in your country:

- Social dialogue and intersectoral agreements at national level.
- Sectoral level.
- Territorial and local levels.
- Professional level.
- Company level, if possible, differentiating between larger firms and SMEs. If relevant, also refer to multinational companies with/without European Works Councils.

### **6.3 Collective Bargaining on CVT**

Please provide the following information on the role of collective bargaining in CVT initiatives and try to highlight whenever possible changes and trends since 2002:

- The workers covered by collective bargaining on CVT (number of workers, coverage rates), specifying the type of the relevant collective agreements (intersectoral, regional/territorial, sectoral, professional, company).
- The workplaces involved in collectively-agreed CVT initiatives (number of workplaces, percentages), specifying the type of the relevant collective agreements (intersectoral, regional/territorial, sectoral, professional, company).

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By focussing on the collective bargaining level which is most relevant in your country (intersectoral, regional/territorial, sectoral, professional, company – see section II.3 above), please provide the following information on the features of collectively agreed CVT initiatives and try to highlight whenever possible changes and trends since 2002:

- The beneficiaries of CVT initiatives regulated by collective bargaining: all employees or specific groups (like women, unemployed, part-timers, fixed-term workers, temporary agency workers, full-timers, older workers, new recruits, managers, white-collars, blue-collars, low-qualified, young, apprentices/trainees, immigrants).
- The type of CVT initiatives introduced by collective bargaining: on the job/off the job, courses, workshops, training leave, training plans, specific actions, etc.
- The training content of CVT initiatives introduced by collective bargaining: high/low skills, general/specific skills, etc.
- The compensation of time spent on CVT initiatives introduced by collective bargaining: paid vs. non-paid.
- The integration in the national CVT system of CVT initiatives introduced by collective bargaining: (i) the accreditation/certification of learning processes (awarded/non awarded and the link with relevant bodies/institutions); (ii) certification of learning outcomes (certified/non certified - please specify type of certification and the link with relevant bodies/institutions).
- The introduction of an 'individual right' to training by collective bargaining and how this right is ensured.
- The presence and characteristics of joint committees to monitor and follow up the CVT initiatives introduced by collective bargaining.

### **6.4 Main positions of the social partners on the CVT**

Please provide a brief illustration of the main positions of employer associations and trade unions on CVT, especially focussing on their assessment of the strengths and weaknesses of the present CVT system and policies.