Matthias Knuth

Continuous Restructuring and Transfers from Redundancy: Critical Demands on the Main Social Actors in Germany

Summer European University Change at Work: The European Challenge
Nantes, August 29 – 31, 2004
Stylised Facts about Dismissals in Germany

- 85% for economic reasons
- 56% of cases: no workers‘ representation
- 75% no information to workers‘ rep.
- 98% no objection by workers‘ representation
- 92% not covered by a social plan
- 78% of dismissals without any legal resistance, financial sanction or assistance to workers

## Unsatisfied Needs for Support

**Sources:** Employment Statistics of the Federal Employment Service; Bielenski et al. 2003 op.cit.; own calculations

<table>
<thead>
<tr>
<th></th>
<th>Annual Number of Job Separations (Long Term Average)</th>
<th>Percent</th>
<th>of Line</th>
<th>Thousands</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>100</td>
<td>6,500</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>32</td>
<td>1</td>
<td>2,080</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>85</td>
<td>2</td>
<td>1,768</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>12</td>
<td>2</td>
<td>250</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>8</td>
<td>3</td>
<td>166</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>45</td>
<td>83</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>35</td>
<td>1,602</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>35</td>
<td>3,424</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- **Deficit in Social Plans:** 4
- **Deficit in Provision:** 3
- **Entries into Unemployment from Employment (2001):**
Public Grants in Supplement to Social Plans with Provisions for Outplacement

<table>
<thead>
<tr>
<th>year</th>
<th>no. of enterprises</th>
<th>of these: insolencies</th>
<th>no. of employees concerned</th>
<th>average grant per redundant employee €</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>134</td>
<td>35%</td>
<td>7,426</td>
<td>3,494</td>
</tr>
<tr>
<td>2002</td>
<td>214</td>
<td>32%</td>
<td>13,559</td>
<td>3,878</td>
</tr>
</tbody>
</table>

annual no. of redundancies 1,768,000

coverage of public provision < 1 %

Source: Federal Employment Service

- enterprises <50 employees under-represented
- women under-represented (in relation to the national workforce, not the workforces concerned)
- services under-represented
- ‘not unemployed’ after participation: 73%
- in work (including 2% self-employment): 60%

⇒ no assessment of net effects
Legal Provisions since 2004:
(1) Subsidies to ‘Transfer Measures’

- threat of unemployment due to redundancy
- employer commissions third party provider with measures aimed at re-integration into the labour market
  - provider operates a quality control system
- employer bears at least 50% of cash-flow cost (no ‘in kind’ contribution accepted)

⇒ maximum of 2,500 € per participant in subsidies
Legal Provisions since 2004:
(2) Short-time Compensation for Transfers from Redundancy

- jobs disappeared due to restructuring
  - short-time at ‘zero hours’
- redundant workers concentrated in separate unit
  - ‘transfer company’ if also legally separate
- in order to delay their dismissal and to support their re-integration
- participants have gone through profiling / screening (which can be subsidised provision under (1) before entering short-time)
- participants ‘shall’ receive vacancy information, training, work experience with other employers, job search coaching
  - wage loss compensated at a rate of 60% (67% for workers with dependent children)
  - for a maximum duration of 12 months
Changes in Comparison to 1998 – 2003

(1) ‘Transfer Measures’

- size of enterprise no longer matters
- amount of subsidy clearly defined:
  maximum of 50% of total cost or 2,500 €
  discretion in favour of insolvent firms abolished
- ‘in kind’ efforts (time off for participation, use of employers’ premises) count no longer as employers’ contribution
Changes in Comparison to 1998 – 2003 (2) Short-time Compensation for Transfers from Redundancy

• ‘restructuring of enterprise’ sufficient as qualification (previously: structural crisis of the respective industry)
• provisions clearly sequenced: (1) can be gateway to (2) (previously competing provisions)
• short-time compensation limited to 12 months (previously 24)
The ‘Transfer Chain’

- Notice of dismissal
- Notice period
- ‘Transfer measure’
- Placement with new employer
- Unemployment
- Retirement
- ‘Short time’ (0 hrs., max. 12 months) typically with ‘transfer company’ as legal employer
- Vacancy information, training, work experience with other employers, job search coaching
- Placement with new employer
The ‘Transfer Deal’: The Role of Transfer Companies

↑ voluntary annulment of open-ended labour contract replaces imminent dismissal
  ⇒ no legal recourse possible
↓ prolongation of employment beyond notice period
↓ transfer services
↓ possibly: supplement to short-time allowance
↓ possibly: severance payment

exchange of
⇒ ressources and
⇐ services

↑ obligation to actively participate in transfer activities
↓ fixed-term labour contract on short-time basis
↓ transfer services
Demands on Redundant Workers in the Process of Transfer

- accept ‘real services’ as an equivalent (totally or in part) for severance payments
- accept the ending of an employment relationship many may have believed to be ‘for life’
- orient themselves towards new challenges and conditions
Demands on Employers

- envisage and commission employment-oriented measures (possibly in times of corporate crisis)
- pay at least 50% of costs of ‘transfer measures’ + full wages for participation during working hours
- bear residual wage costs during short-time
  ⇒ social insurance contributions, full wages for bank holidays and annual leave
    ⇒ 35% of regular wage costs
  - plus possibly negotiated supplements on top of short-time allowances
- bear these reduced costs for periods longer than employees’ individual notice periods (up to the legal maximum of 12 months short-time)
- pay 100% of employment assistance costs during short-time (unless ESF can be tapped)
Demands on Works Councils

• defend **existing jobs** and simultaneously envisage transfer assistance to **new jobs**
  ⇒ at which point in the negotiating process do you openly switch strategy?

• give redundant workers **confidence** in opportunity for transfer
  • ‘real services’ of employment assistance more sustainable than cash payments

• monitor quality and fairness of transfer services
Demands on Trade Unions

- observe ‘critical’ corporate development in order to be prepared for pro-active responses
  - often: bring first information on the mechanisms of transfer and of public provision to the employer
- strategic coaching of works councils
- give employees confidence in transfer provisions
- accept irony of transfer to new industries:
  - loss of members for TU representing old industry
Demands on the Public Employment Service

- explain and implement complicated provisions in a straightforward manner
- provide information on available provisions and providers for employers and works councils
  - win access to small enterprises in crisis where no workers’ representation exists
- win the confidence and commitment of employers and works councils who are ‘first time users’
- monitor the quality and outcome of third party provision
Demands on Providers

- mediate between all the other actors
- survive and maintain professional quality in a highly cyclical business
- infuse optimism and can-do attitudes in seemingly hopeless situations