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**Straight to the Core: Explaining Union Responses to the  
Casualisation of Work**  
*The IG Metall Campaign for Agency Workers*

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## 1 Introduction

Atypical, precarious and low-wage work has been growing in Western political economies over the last thirty years (Gautiè & Schmitt, 2010; Houseman & Ōsawa, 2003). This phenomenon has challenged the ability of traditional class actors such as trade unions to represent workers (Gumbrell-McCormick, 2011). A broad body of literature has pointed out the factors which make the union representation of atypical workers difficult, such as the heterogeneity and vulnerability of these workers and their dispersion along the value chain (i.a. MacKenzie, 2009; Holtgrewe & Doellgast, 2012). Still, the most controversial research issue is the willingness of unions to engage in the representation of atypical workers.

Some scholars claim that unions contribute to the labor market marginalization of atypical workers. Under increasing economic pressure, unions are said to use atypical workers as a buffer in order to protect their core constituencies from market fluctuations and cost-cutting pressure (Hassel, 2012; Palier & Thelen, 2010). Other research shows that unions increasingly seek to recruit atypical workers and to bargain on their behalf. Their inclusion has been interpreted as a reaction to an increasingly hostile environment for labor. In order to regain bargaining power unions strengthen their recruiting and mobilization efforts (Frege & Kelly, 2004; Greer, 2008; Turner, 2009).

While these contradictory empirical findings have often been set up as a debate (Clegg *et al.*, 2010), some authors have framed them as a dilemma unions face in dual labor markets (Goldthorpe, 1984; Olsen, 2005). Goldthorpe argued that both inclusion and exclusion are viable strategies for unions to maintain their labor market power: Confronted with employers' segmentation strategies, unions can “strive to uphold class orientation, which must entail as far as possible opposing dualism” or they can “accept dualism and fall back on the defense of the specific sectional interests of their enrolled members, in the hope that these interests may be then as much protected as undermined by dualism through the “shock absorber” function that the secondary-workforce performs” (Goldthorpe, 1984: 149).

Still, there has been little research into the conditions under which unions decide to undertake the one or the other strategy. Ultimately, this decision relates to the issues of how unions define their boundaries and constituencies. We argue that the inclusion of peripheral workers into union boundaries depends on the changing perception of possible alignment of interests between the union and its core members on the one hand, and either management or peripheral employees on the other. On the one hand, segmentation can provide mutual benefits to employers and core workers because it allows cutting productions costs while protecting the core workforce; thus, they can enter a coalition of interests excluding marginal workers. On the other hand, segmentation may also

threaten core workers through increasing competition with the peripheral workforce. This makes their interests more interdependent while those of core workers and management progressively diverge. We identify institutional change towards liberalization in the labor market as an important condition for unions' strategic re-orientation, as it reconfigures the constraints and opportunities for actors. It lifts constraints to the employers' discretion (Baccaro & Howell, 2011: 527), who can adopt more aggressive segmentation strategies threatening unions' power and collectively agreed standards for the core workforce.

This paper illustrates this argument through a historical analysis of the approach of the German metalworkers' union IG Metall towards agency workers. This form of contingent work has become quantitatively and qualitatively important in Germany in the last ten years, reaching the peak of almost one million workers in 2011 - one fifth of which are concentrated in metal occupations (Bundesagentur für Arbeit, 2013: 8-12). The case of IG Metall is critical because German unions, especially in export manufacturing sectors, have been recently found to focus on their core constituencies (Palier & Thelen, 2010; Hassel, 2012). However, since 2007, IG Metall has been running a campaign aimed at recruiting agency workers and at promoting their equal treatment and pay. Moreover, agency work was a central issue in the most recent bargaining rounds, which reduced the wage gap between agency and standard workers and set rules for their permanent hiring.

The progressive opening of IG Metall boundaries to contingent workers points to a re-definition of union's constituencies. We will show that the catalyst for this strategic re-orientation was an institutional change – the reform of the Temporary Employment Act –, which deregulated the use of agency work. The union's inclusion of agency workers was a reaction to the threat, posed by employers' use of “peripheral” workers, to the working conditions of union members. Our findings demonstrate that actors' perceptions regarding the impact of institutional change are important for their strategic responses – in this case, how unions draw their organizational boundaries.

The paper is structured as follows. The next two sections discuss the role of identities and institutions for the definition of unions' representation domain, referring in particular to the German context. The fourth section illustrates our argument and the fifth contains the methodology. Sections six and seven are dedicated to our empirical analysis. Section eight discusses our findings and section nine concludes.

## **2 The role of institutions and identity for union boundaries**

Goldthorpe illustrates the dilemma unions face in segmented labor markets, whether they should

focus on their core constituencies or include the peripheral workforce in order to maintain their labor market power (Goldthorpe, 1984: 149). This dilemma regards the issue of how unions set their boundaries. They define their representation domain according to principles of inclusion, which constitute also elements of distinction and exclusion of other workers (Hyman, 1996: 120). Different factors influence union boundaries such as product markets (Commons, 1909), skills and tasks (Cappelli & Sherer, 1989), identities (Herrigel, 1993) and national institutions of labor markets and industrial relations (Ebbinghaus & Visser, 1999; Streeck, 1993). Our framework investigates the influence of the interplay between union identities and institutions on the definition of union boundaries (see also Frege & Kelly, 2004; Hyman, 2001).

Union identities have developed on the basis of the most relevant individual and collective identities among employees (Herrigel, 1993; Streeck, 1993), following the unions' "perception of special interests within the general interest of (labor) as a class" (Schmitter & Streeck, 1999: 55). The prevalence of an identity over the others is associated with an organizational form. For instance, a working-class identity, which relies on an understanding of contrasting interests between labor and capital, is associated with industrial unionism. Industrial unions vertically organize workers and pursue solidaristic policies for reducing status and occupational differences; one of their leading principles is "equal pay for equal work" (Jackson, 2009: 72). Instead, enterprise unions emerge when the identity of the workers is attached to their company and its economic success, and the unions are mainly focused on the companies' core workforce. Thus, they cooperate with the management in order to pursue their common interests within the company (Streeck, 1993: 42ff.). Unions never perfectly reflect one type of unionism – such as the above-mentioned industrial and enterprise unionism or the craft unions; rather, they are caught in a tension among these types and are closer to one organizational form or the other according to changes in the external environment, and to the issues at stake (Hyman, 2001).

The institutional setting also shapes unions' organizational domain. Institutions influence workers' form of representation as they define the structure of opportunities and constraints in which organizations formulate their strategic choices and interact with other actors such as employers and the state. Institutions: "influence the success of different forms of union organization", favoring the persistence of one over the other (Jackson, 2009: 72). Institutions and identities have historically developed together and mutually influence each other. On the one hand, institutions do not just favor the formulation of particular interests but are themselves the product of actors' interactions and struggles, which are filtered by their existing identities. On the other hand, institutions represent the context where unions formulate their interests and channel the expectations of their members – in other words, where unions form their identities. Given their close interconnection, institutional

change affects the prevalence of one union identity over the other, and, ultimately, also unions' representation domain.

### **3 German unions in an eroding institutional context**

The decline of the egalitarian tradition of industrial unionism in Germany illustrates this connection between institutional change and identity. There, unions and collective bargaining institutions have historically supported a homogenous wage distribution, and German unions organize workers vertically within an industry. However, the German labor movement has always been characterized by a tension between their industrial and enterprise identity (Streeck, 1993). This is linked to the dual interest representation, which entails both vertical industrial unions and works councils with codetermination rights at company-level. In the Seventies and Eighties capillary union presence enabled the control over works councils; the unions' bargaining agenda reflected their working-class identity, which aimed at sharing productivity increases across sectors, reducing inter-establishment and inter-sectoral wage dispersion (Müller-Jentsch, 1995; Streeck, 1997).

Since the Nineties the inclusiveness of this system has decreased while inequality has risen. Union density and bargaining coverage have declined, collective bargaining institutions have become increasingly decentralized and fragmented, and atypical work has expanded (Artus, 2001; Doellgast & Greer, 2007; Bispinck *et al.*, 2010). Fragmented bargaining and the increasing competitive pressures have opened up opportunities for the expression of particularistic interests and plant-level egoism, emphasizing intra-class conflicts (Hancké 2000; Doellgast 2009).

The dualization literature has argued that these development are supported by plant-level cooperation between employers and core workers (represented by their works councils), which relies on their common interest of enhancing the company's competitiveness. These cross-class coalitions agree to limit cost-cutting and flexibility measures to the service periphery preserving the standards for core workers (Palier & Thelen, 2010; Eichhorst & Marx, 2011; Hassel, 2012). Thereby, works councils have distanced themselves from the broader agenda of industrial unions; instead, they supported plant-level cooperation and works councils in core industries and gained political weight within the labor movement (Hassel, 2012: 10). Reframing the analysis of the dualization literature in our terms, unions seem to have abandoned a broader understanding of working-class solidarity typical of industrial unionism, and moved to an enterprise model of interest representation, excluding the marginal workforce.

On the other hand, a growing literature strand has shown that the erosion of industrial relations has opened up new opportunities for employers to circumvent collectively agreed standards,

undermining unions' bargaining power (Doellgast *et al.*, 2009). As a consequence, German unions have increasingly targeting marginal workforce groups through campaign and bargaining initiatives. The inclusion of new workforce groups and the adoption of social-movement style strategies in order to revitalise the existing institutions and rebuild conflict potential towards employers (Greer, 2008; Turner, 2009; Vandaele & Leschke, 2010). In this framework, the interests between management and core unions are conflicting, and a cross-class coalition does not represent a viable option because the existing institutions do not support the balance of power between the parties. Instead, unions need to open their boundaries to new workforce groups, re-emphasising their identity as industrial unions.

#### **4 Explaining changing strategies towards contingent workers**

The accounts of unions' strategies towards peripheral workers in Germany are mixed and contradictory, revealing the incompleteness of the present theoretical accounts. While the dualization literature is unable to account for new recruitment strategies towards marginal employees, the revitalization literature falls short in explaining why unions continue supporting existing social partnership institutions in times of labor decline and accept political compromises with management.

Our framework does not present these strategies as alternatives but rather as equally viable responses to increasing labor market segmentation. We conceptualize unions' strategic options in regard to contingent workers on a continuum ranging from exclusion, to subordination, and finally to inclusion. Our conceptualization follows Heery's typology of union strategies towards contingent workers, which includes both the dimensions of internal and external representation. While the former refers to the recruitment of contingent workers into the union, the latter regards the inclusion of their interests into the bargaining agenda at workplace, sectoral and national level. An exclusive attitude is associated with policies aimed at removing contingent work from the labor market - either through legislation or bargaining - and with the refusal to organize and support agency workers. Subordinated representation implies the acceptance of contingent workers on the labor market and as union members, even though the representation of their interests is subordinated to their core constituencies. Finally, the attempts to recruit contingent workers and policies aiming at their equal pay and treatment reflect the adoption of an inclusive strategy (Heery, 2009: 430 ff.).

We claim that subordinated representation and inclusion are both strategies which can help unions to secure their institutional and organizational power resources when these are declining. We argue that the strategic choice depends on unions' perception of possible alignment of interests between

those of their core workers on the one hand, and either management or peripheral employees on the other. If the power resources deriving from traditional institutions are still available even though in decline, unions are likely to adopt a subordinated model of representation and to strengthen patterns of cooperation with the management as a response to increased pressure. Even if at the expense of broader working-class solidarities, the perception of labor movement weakness makes alliances with the management more attractive. Unions will not seek to represent new workforce segments as long as the negative consequences of eroding bargaining power can be externalized to the peripheral workforce.

However, if segmentation becomes too pervasive, unions may perceive the increasing use of contingent work from the employers' side as a threat to the interests of core employees and as a managerial departure from the traditional cooperation pattern. Under these conditions, the interests of the employers and core workers may be understood as increasingly diverging, while those of core and peripheral workers as interdependent. This shift in their perception will push unions to depart from coalitions with the management and to pursue broad working-class interests. In order to regain bargaining power towards employers they will aim to re-regulate institutional loopholes. To this aim they will enlarge their representation domain and strengthen alternative sources of power such as membership mobilization and campaigning.

The shifting alliance of interests is signaled not only by the content of union strategies but also by a changing level of conflict: Coalition strategies with the management, based on a narrow understanding of workers' interests, are more cooperative. Strategies pursuing broad working-class interests are associated with higher level of conflict with the management – e.g. membership mobilization and campaigns.

In our analysis of shifting unions' strategies, institutions are crucial because they define the structure of opportunities and constraints in which the interest alignment takes place. Liberalization lifts constraints on employers' discretion (Baccaro&Howell 2011: 527), allows the use of employers' segmentation strategies and undermines employers' incentives to rely on cooperation with core workers. As a cross-class coalition becomes increasingly unviable, unions are likely to include peripheral workers in their representation domain and shift from an enterprise union logic, characterized by cooperation with the management, to a more confrontational industrial logic. We argue that the relationship between declining power resources and union strategies is mediated through the perception of interests' alignment between employers and unions.

## **5 Methodology**

The data regarding the diffusion of agency work relies on research reports conducted by IG Metall and by the Hans Boeckler Foundation, and on the statistics of the German Federal Employment Agency and of the Institute for Employment Research (IAB).

Our analysis of changing perceptions and strategies within IG Metall relies on the IG Metall surveys conducted on work councilors and union representatives, the resolutions of union congresses, position statements and internal magazines. Furthermore, we conducted ten semi-structured interviews with DGB and IG Metall officials at local and federal level both by phone and in person. Our interview partners were involved in the campaigns and in the bargaining rounds on agency work. The interviews provide a closer insight into the motivations and the politics underlying the strategic change of IG Metall. They were conducted between September 2009 and September 2012 and analyzed using Atlas.ti.

## **6 The deregulation of agency work**

The Temporary Employment Act of 1972 allowed the use of agency work in Germany, which has been progressively deregulated over the last 25 years. The duration of assignments has been progressively extended, from a maximum of three months in 1972 to 24 months in 2002, until the abolition of any limitation through the Reform of the Temporary Employment Act in 2003. Moreover, while companies could originally not re-hire the same agency workers on agency contracts, a one-time exception was introduced in 1997 and any limitation was lifted in 2003. In the same year, dismissal protection was lowered as agencies could employ workers on contracts of the same duration as their assignment at the hiring company. Additionally, since 2003, companies do not need to specify the reason for hiring agency workers. The principle of equal pay was amended in 2002, as equal pay was introduced only after completing 12 months of assignment. The 2003 reform stated that the equal pay principle should apply from the first day of assignment unless specified otherwise by collective agreement (Bundesagentur für Arbeit, 2013: 5).

In order to circumvent equal pay, agencies were willing to bargain a collective agreement – applied now by more than 90% of the agencies–, and negotiations between the employers' association and the German Trade Union Confederation (DGB) started immediately after the reform was passed (Vitols, 2008: 197ff.). A special bargaining body set up by DGB – instead of the sectoral unions – was in charge to negotiate with the two main employers' associations. However, the employers broke up the traditional monopoly of DGB unions. During the negotiations, a third agency association started bargaining with the special body for the agency sector of the Christian



Federation of Trade Unions<sup>1</sup>, a union which is renowned for undermining DGB collective agreements (Dribbusch & Birke, 2012: 6). They achieved an agreement with low wages and working conditions. The presence of another union and employers' association represented for several agencies an exit option from the DGB collective agreement, and weakened the bargaining power of DGB unions. Eventually, they signed a collective agreement with the two biggest employers' associations, which reflected the poor outcomes of the Christian unions' agreement. As a result, in the metal sector, the pay differential between an agency worker and a regular employee was between 30 and 40% in 2009 (Weinkopf, 2009). As hiring companies pay agency fees, the labor costs are higher than the actual wages for agency workers. However, low wages and the absence of a flexibility bonus – provided for instance by French collective agreements– help to maintain the costs under the level of standard workers. Moreover, employers do not have to factor in the “shadow costs” of dismissal when they hire agency workers (Holst *et al.*, 2010: 110; Seifert, 2011: 76).

|The 2003 reform represents a turning point for the use of agency work as its upward trend after 2003 confirms (see Figure 1). While agency workers amounted to 328,000 in 2003, their number exceeded 700,000 in 2007. Due to the economic crisis in 2008-9, it sharply decreased by 100,000 jobs, but in 2011 reached its peak at more than 900,000. The increase is confirmed also in relative terms as the rate of agency workers on the whole workforce was 1.3% in 2004, but reached 2.9% in 2011 (Bundesagentur für Arbeit, 2013: 8).

-----Figure 1-----

Regarding the sectoral distribution, 21% of agency workers are employed in the metal sector (Bundesagentur für Arbeit, 2013: 12), making up 5.3% of the sectoral workforce (Gesamtmetall, 2012).

After the reform in 2003, the use of agency work has not only increased but also changed its original function of filling in short-term gaps in the workforce. Agency workers are traditionally hired in response to seasonal production peaks or in substitution for workers on holiday or maternity and sick leave. The use of this form of employment only for short assignments implies that agency workers do not have firm-specific skills and therefore can be effectively employed only in production areas requiring low and generic skills (e.g. routinized activities such as assembling and delivery) (Bellmann, 2004: 133; Promberger, 2006: 84ff.). This use of agency workers is indicated by short contract tenure and by fluctuations according to seasonal peaks (Seifert and

Brehmer 2008: 337). However, statistics show that contract tenure has extended over time: In 2002, 44% of agency workers had a contract longer than 3 months, while 10 years later this figure had increased to 54% (Bundesagentur für Arbeit, 2013: 18). Moreover, while the size of agency work is subject to seasonal variations, seasonal productive cycles cannot explain the increasing trend especially since 2003, as shown in Figure 1.

The literature has also attributed to agency work the function of a recruiting tool (Osterman & Burton, 2006: 434), suggesting that agency workers are integrated into the “standard” labour market after a certain period of time. Also in the German debate, it has often been claimed that agency work serves as a stepping stone in the labor market, especially for unemployed people (Hayen, 2005: 9; Vitols, 2008: 144). However, data on the transition from an agency position to a permanent position in Germany does not seem to fully support this claim. According to the data on individual employment histories provided by the Institute for Employment and Research (IAB), the transition rate for those who were employed regularly for 180 days before getting an agency contract is less than 20%, while 42% remain employed as agency workers. More than half of those employed as agency workers 180 days before the date still have an agency contract three months later (Crimmann *et al.*, 2009: 86). According to a survey among works councils in the metal sector in 2007, 16% of the companies had not permanently hired any agency worker in the previous two years, and almost the half of the works councils claimed that only 5% of agency workers were hired with standard contracts after their assignment (Wassermann & Rudolph, 2007: 12).

This trend is problematic also in regard to the new hires. According to an IG Metall survey, which was conducted among more than 5,000 works councils in 2010, in 43% of the companies, the majority of new hires had a temporary agency contract, while only 15% of the companies offered open-end contracts to new hires. 20% of the works councils reported that in their companies the jobs lost during the crisis (2008) had been substituted by agency contracts by 2010 (IG Metall, 2010). This evidence seems to suggest a change from a reactive use of agency work characterized by *ad-hoc* assignments to a more strategic use, making agency work a structural component of the workforce.

An indicator of the substitution of standard positions through agency work is also visible through the high percentages of agency workers on the workforce in some companies. The analysis by Bellmann and Kühl based on the IAB establishment-level panel data shows that the use of agency work changed. While the percentage of companies using up to 5% of agency workers on the total workforce decreased from 65% to 54% between 1998 and 2006, the number of companies making an intensive use of agency workers (over 20%) more than doubled, from 4.8% to 10.4% (Bellmann

& Kühl, 2007: 32).

Agency work is more likely to be used for the easiest tasks such as on the assembly line or in logistics (Gesamtmetall, 2010). However, recent studies have shown that agency workers are not only present in the production, but also at the level of specific skilled workers and at the engineering level (Bromberg, 2011; Dudenhöffer & Büttner, 2006: 32 f.). A survey undertaken by the employer association of the metal sector, Gesamtmetall, confirms that in 2010, 73% of metal companies had agency workers in production but 21% also employed them in Research & Development (Gesamtmetall, 2010). Agency workers can be found at every level of the company and have become a structural component of staff as the core workforce, which, when reduced to its minimum, cannot satisfy the production requirements for normal demand. The core-periphery model has turned into an interwoven model, where permanent employees and agency workers perform the same tasks. This enables management to build a sort of “security net” for companies, which can quickly reduce personnel costs in case of economic downturns (Holst *et al.*, 2010: 110).

The evidence for employers’ strategic use of agency work is mixed and, even if an increasing number of companies have been making extensive use of agency work, it is difficult to estimate the impact of these practices on the whole sector. Drawing a conclusion on this issue would be beyond the scope of this paper. Instead, we are going to show that this new use of agency work changed unions’ perceptions of the phenomenon and therefore their strategies.

### **7 IG Metall strategies towards agency workers**

Relying on Heery’s typology, we identify three phases in the strategy of IG Metall towards agency workers: exclusion, subordinated bargaining and inclusion. The most relevant re-orientation took place as a reaction to the reform in 2003, and therefore we dedicate a section to the change of perceptions leading to the campaign.

#### *First phase (1972-1996): Exclusion*

The first phase is characterized by the refusal of agency work altogether. Immediately after it was legally allowed in 1972, the DGB publicly advocated a ban on agency work, which was then introduced in its statute in 1981 (Hayen, 2005: 9). In this phase, the initiatives of the unions were focused on lobbying political actors in order to re-introduce the ban against this form of employment and they did not try to regulate the sector (Vitols, 2008: 150). In the 1989 congress, IG Metall deliberated not to sign any collective agreement with agencies because that would have compromised union opposition to that form of “modern slave trade” (IG Metall, 1992). This radical

opposition to agency work led unions to leave agency workers unrepresented, as a former IG Metall secretary in North-Rhine Westphalia explained: “For a long time we have been of the firm opinion that agency work had to be banned and therefore we have not taken care of the issue” (Weigand, cit. in Mulitze, 2006).

The low impact of agency work on works councils and the workforce in the hiring companies also explains this passive attitude, as IG Metall considered it unrealistic to mobilize them for enforcing the ban at plant-level (Bode *et al.*, 1994: 365; Aust *et al.*, 2007: 243). In this first phase, IG Metall strategy was exclusive and characterized by a *laissez-faire* attitude. Around the mid-1990s, IG Metall realized that politics was never going to support the ban, and was instead progressively deregulating its legal framework. Thus, the request for the ban was cancelled by a DGB-statute in 1996 (Wölfle, 2008: 39).

#### *Second phase (1997-2006): Subordinated bargaining*

At the end of the Nineties, facing high unemployment levels, the DGB unions started considering agency work as a useful instrument for re-integrating marginalized groups such as elderly people or the long-term unemployed into the labor market. The DGB in North-Rhine Westphalia opened the agency START, which aimed at facilitating the transition into the labor market of those disadvantaged groups (Vitols, 2008: 152). At the same time, collective agreements signed between the unions and agencies aimed at granting adequate working conditions to agency workers. Together with other unions, IG Metall bargained a few collective agreements with some major agencies, but the coverage was low and the wage level for agency workers was below that of workers directly employed by the hiring company (Linne & Vogel, 2003: 18; Weinkopf & Vanselow, 2008: 15).

As unions considered agency work an instrument for job creation, they were more willing to accept its deregulation (Wölfle, 2008: 39). In 2002, also under pressure from the Social-Democratic Party (Vitols, 2008: 189-193), the DGB accepted a first liberalization round under two conditions: First, equal pay should be applied against wage discrimination of agency workers. Second, union bargaining power in the agency sector had to be guaranteed and strengthened by law (DGB in Aust *et al.*, 2007: 244). Both requests were included in the new Temporary Employment Act, which, however, allowed for the amendment of the equal pay principle by collective agreements. Even if the resulting collective agreement *de facto* abrogated equal pay, a union official at DGB headquarters, reported that the bargaining round was considered a success because the agency sector could be partly regulated.

Around the mid-2000s, most works councils had not engaged with agency workers and felt responsible only for the core workforce (Aust *et al.*, 2007: 263). In a survey conducted in 2007 among 80 companies with over 25% of agency workers on the workforce, it is reported that only 12% of the works councils had developed specific instruments for dealing with agency workers, such as office hours dedicated to their concerns or special meetings (Wassermann & Rudolph, 2007: 18). According to Promberger's case-study analysis at plant level, works councils did not fully exploit their co-determination rights, even if they had co-decisional rights in regard to the motivation and the extent of the use of agency workers, and their working conditions and representation at workplace. This is because the large majority of works councils was not aware of their influence possibilities (Promberger, 2006: 138ff.). IG Metall was also responsible for this lack of preparation because they did not provide any specific training for works councils, "leaving them alone for years", as a works councilor said (Wassermann & Rudolph, 2007: 9).

There are several reasons for this passive attitude towards agency workers. The additional efforts required by their presence exceeded the capacities of many works councils. Even though the reform of the Works Constitution Act in 2001 established that agency workers could vote for works councils after three months of assignment in one firm, their size was calculated according to the number of permanent workers. This lack of staff resources might have led works councils to follow a strict interpretation of their representative mandate and to leave the question of agency work to the union (*ibid.*: 26f.). Moreover, works councils did not feel concerned about agency workers. According to an IG Metall internal research project in the Berlin-Brandenburg-Sachsen district, 75% of the works councilors interviewed rejected the claim that agency work could undermine the working conditions of core workers (reported in Aust *et al.*, 2007: 263).

Instead, several empirical analyses on works councils undertaken in the mid-2000s found that agency work was understood as an instrument for coping with employers' flexibility needs without undermining the working conditions of core workers. According to the above mentioned IG Metall research, the majority of the interviewed works councilors suggested that the main effect of agency workers was to secure core workers (*ibid.*: 263). In the survey, conducted by Wassermann and Rudolph, 43% of the works councilors considered the controlled use of agency workers to be a reasonable strategy as a flexibility buffer, while just one out of four shared the previous DGB orientation to eliminate agency work. Only one out of three works councilors pursued equal pay and equal treatment as bargaining aims, and only 8% of the workplace agreements signed in those years contained provisions for equal pay (Wassermann & Rudolph, 2007: 15-24). Weinkopf and Vanselow report different qualitative studies which show that works councils signed agreements shifting risks and costs from core to agency workers, thus strengthening the segmentation within the company

(Weinkopf & Vanselow, 2008: 30). According to an evaluation of plant-level agreements from the Hans Boeckler Foundation's archive, the majority of these provisions regarded the organization of work - such as holidays and shifts - and flexibility arrangements in terms of overtime and work during unsocial hours. Most of the agreements included a maximum quota for agency workers, specifying that they should contribute to ensuring the employment security of the standard workforce. They generally made reference to sectoral agreements in regard to pay and working conditions of agency workers (Zumbeck, 2009: 15-40).

In this phase, the representation of agency workers was not fully integrated into the IG Metall structure of representation. The regulation of agency work was delegated to the DGB bargaining group and was exclusively focused on agencies, both for setting standards and for creating representation structures. IG Metall did not undertake initiatives in hiring companies and left the issue to the works councils, which subordinated its regulation to the interests of core members and accepted managerial cost-cutting strategies. Agency workers' representation can be described as subordinated and these first attempts did not raise any major conflicts with employers.

### *Changing perspectives on agency work*

After the Hartz reforms, works councilors, core workers, and IG Metall increasingly perceived agency work as an attempt at the "conscious creation of a cheap labor force" (IG Metall, 2007a: 23). IG Metall started portraying workforce segmentation as a strategy for weakening collective agreements and workers' representation and for circumventing dismissal protection. According to the IG Metall vice-secretary, "while agency work in the past has been an instrument for managing production peaks, its character has deeply changed since the Hartz reforms. Agency work is now aimed at establishing a permanent low-wage sector inside the firms" (Wetzel in IG Metall, 2008a: ii). This quote from an IG Metall official from North-Rhine Westphalia illustrates these concerns:

"Our core workers feel threatened by agency work – by the instrument, not by the workers – because agency workers have nothing to lose, while our core workers do because their working conditions come under pressure. The more agency workers you have, the more it comes to employers' mind to challenge the collective agreements and the core workforce".

Several mechanisms can lead to increasing pressure on core workers. Agency workers are often used as benchmarks for measuring the performance of permanent ones, because they tend to work harder and quicker in order to be re-hired. According to a works councilor of a major automotive company, "agency workers are lured with the promise of permanent hiring, so that they outperform stable workers. However, they are not hired. Instead, core workers are questioned as to why they

cannot increase their performance to the agency workers' level" (IG Metall, 2007b: 6). This pressure has a disciplining effect on core workers, which employers may use for obtaining concessions from unions and works councils. Moreover, a high presence of agency workers affects the effectiveness of labor struggles, because the negative impact of strikes on the production is lower if the company has a high presence of agency workers. Furthermore, stable workers who are afraid of being replaced by agency workers are difficult to mobilize. Qualitative studies showed that core workers in companies with a high rate of agency work start developing a so-called "sentiment of substitutability" (Dörre in IG Metall, 2007a: 8). Several internal documents supported and spread the idea that agency work was substituting normal jobs, backed up by the Federal Government's 10th Report on Agency Work stating that "considering the growth of agency work, it has to be said that these are not always new jobs. Particularly in big firms there are trends indicating the substitution of stable workers through agency work" (10th Report on Agency Work in IG Metall, 2007a: 16). More than half of the 5,000 works councils involved in an IG Metall survey, claimed that agency work was used in their companies to substitute standard job positions (IG Metall, 2008b).

Accordingly, it was generally agreed that unions had to intervene more strongly on the issue (ibid.: 15). At the 21st IG Metall congress, the secretary Bertold Huber stated:

"Agency workers cannot be treated worse than the core workforce. We cannot allow agency work to keep creeping in stable jobs. This threatens our collective agreements and us all in the long run. Where we cannot stop agency work, there must be equal pay. For this principle we will stand up - plant for plant. This is what we understand as solidarity!" (Huber, 2007).

Even though the government has not been responsive to the requests of re-regulating agency work, IG Metall thinks that there is room for action: "We will not wait until the legislator acts, instead we'll strive together with the works councils inside the firms for better conditions and better regulation, until we achieve the "same wage for the same work", a union official from the IG Metall headquarter told us.

### *Third phase (2007-2012): Reorientation and Action*

Given the increasing use of agency work on the labor market, previous strategies were perceived as unsuccessful – especially sectoral bargaining, given the unions' lack of bargaining power in the agency sector. Works councils existed only in the biggest agencies such as Adecco and Randstad, and even in those firms the triangular relationship between agency, hiring company and agency workers made the organization of agency workers difficult, as they could rarely make contact with

their representatives and their fellow workers (Weinkopf & Vanselow, 2008: 26; Vitols, 2008: 15).

Therefore, IG Metall decided to concentrate its efforts in the hiring companies - where it still had bargaining power -, and to integrate the issue of agency work into IG Metall's activities at sectoral and at company level (Wetzel, 2011). Furthermore, the union realized that the hiring companies determine working standards over the value chain, dictating to agencies the conditions for providing their services. Several working groups of standard workers, agency workers and union officials were founded at regional level in order to promote the unionization of agency workers and to mobilize the works councils in the hiring companies (Weinkopf & Vanselow, 2008: 23f.).

In 2004, IG Metall Berlin-Brandenburg started the initiative "Human Agency Work" and, two years later, IG Metall North-Rhine Westphalia launched the campaign "Same Work, Same Wage". While these were only local initiatives, the real turning point came at the 21st IG Metall Congress in Lipsia, where IG Metall approved the launch of a national campaign). The 2008 national initiative "Same Work, Same Wage" aimed at recruiting agency workers and at integrating them into the traditional structures of representation. The campaign raised the awareness among works councilors and union officials on agency work and their responsibilities towards this category of workers. It also put public pressure onto employers and the government, which were to blame for the working conditions of agency workers. The campaign was conflictual, as "improvements for agency workers will not be given away, they have to be gained through the conflict against employers" (IG Metall, 2008a: 20). This strategic choice reflects the new orientation of the union since 2009, i.e. recruitment-oriented, participation-oriented and conflict-oriented (Wetzel *et al.*, 2008).

The new strategy was articulated at two levels. First, IG Metall focused on collective bargaining at firm and at sectoral level. At firm level, IG Metall provided works councils of hiring companies with information on the legal framework and on their co-determination rights in regard to agency work. IG Metall wanted works councils to fully exploit their co-determination rights in order to influence the deployment of agency workers and to achieve agreements for their equal treatment (IG Metall, 2008a: 30). Works councils were also pushed to adopt a pro-active role towards agency workers and to organize them. This implied a deep change for works councilors, who had to understand themselves as the representatives of agency workers as well, even though the latter are not formally employed by the firm (IG Metall, 2009: 15). According to Wetzel, this required the development of "a political and not juridical concept of the firm" (Wetzel, 2008).

Second, IG Metall put efforts into political lobbying for improving legal regulation. This strategy was supported by a confrontative media campaign: Agency work was represented as an unfair strategy of greedy employers, who make profits by producing negative externalities for the whole



society and by breaking the social contract, characterizing the economy of post-war Germany. The campaign included a truck which was sent to different German cities, a postcard action which made visible people's support for the initiative, and several bill boards highlighting the wage differentials between agency workers and regular employees and the “trap effect” of agency contracts. These initiatives publicly blamed employers in order to increase unions’ bargaining leverage.

A union officer in Berlin-Brandenburg explained how the work with the works councils and the name-and-shame campaign belonged together:

“Many (works councilors) let themselves be put under pressure, often they have already experienced layoffs and therefore the mixed calculation: “we can keep our core workers, we are happy to keep this reserve, and if something happens, then...”. There still is this little ambiguity. And this is the reason why we need to achieve this awareness (...). We had to publicly blame the whole issue as it has been experienced in the company, with employers’ abuses (...). As works councilor, I am either part of the scandal or of the solution but I am ready to disclose what’s going on when such a fundamental scandalization is taking place”.

IG Metall considered the outcomes of this campaign to be very positive (Schwitzer, 2012). After little more than five years, 35,000 agency workers had become members of IG Metall and more than 1,200 firms had signed agreements setting better working conditions for agency workers. The main contractual results were first achieved in September 2010, when the equal pay principle was successfully included in the collective agreement of the steel sector. In May 2012 the new collective agreement for the metal and electro industry was signed, which contains two important provisions in regard to agency work. First, it strengthens works councils’ co-determination rights in hiring companies, by defining specific cases in which agency workers can be hired. Second, it puts mechanisms in place for granting the hiring of agency workers into permanent positions: If no company agreement is in place, after 18 months of continuous assignment, metal firms have to take into consideration the permanent hiring. After 24 months the hiring is compulsory. A collective agreement was also bargained in the same year with the agencies’ associations. It defines a system of branch bonuses for workers assigned to metal companies, which aim to close the wage gap between agency and core workers. These bonuses start from a level of 15% additional salary after six weeks of continuous assignment and increase gradually up until the level of 50% after nine months (ibid.).

During the crisis the attitude of the union and the works councils changed. The so-called “crisis corporatism” between works councils and management, served to avoid the dismissal of core workers through the short-time working schemes and the reduction of working time accounts. The strategy of labor hoarding implied the massive layoffs of agency workers, whose interests were marginalized in the union agenda (Lehndorff 2012: 89ff.). Even though the union set up some

counseling services for agency workers and asked to extend short-time work arrangements to them as well, they were mainly used by managers and works councils as a flexibility buffer.

This change of strategies was caused by economic contingencies, which affected the opportunities for the interest alignment between labor and management. Still, the renewed bargaining efforts towards agency workers in 2012 demonstrate that the long-term strategic orientation of IG Metall remains the extension of its boundaries to these workers and the achievement of equal pay. In this phase, the attitude of the union towards employers was inclusive overall more conflictual.

## **8 Discussion of findings**

As the literature gives conflicting accounts of unions' responses to increasing labor market segmentation, this paper has sought to explain under which conditions unions either prioritize their core constituencies and find compromises with the management at the expense of the peripheral workforce; or organize peripheral workers and bargain on their behalf, pursuing broader class solidarities.

Our empirical analysis has shown that the strategies of IG Metall have changed along a continuum from exclusion to subordination and finally to inclusion over the last thirty years. Its attitudes towards the management have moved from cooperation to confrontation. In the first two phases, IG Metall mainly focused on core workers' interests. First, IG Metall advocated for the ban of agency work and did not commit to its regulation. Successively, the collective bargaining with the agencies increased the wage gap between agency and standard workers, while works councils in the hiring companies used agency workers as a buffer for protecting the core workforce. As agency work was understood as a marginal phenomenon used for managing production peaks, IG Metall did not intervene in the workplace cooperation between management and works councils at the expense of agency workers. In other words, IG Metall let the logic of enterprise unionism prevail.

The third phase is dominated by the IG Metall's campaign, which publicly challenged employers and used the media for increasing its bargaining leverage. The campaign also aimed at recruiting and mobilizing agency workers, and pushed local unions and works councils to include them in their representation domain by appealing to broad class solidarities. This phase is characterized by a conflictual approach towards employers, which indicates diverging interests between labor and its counterpart. Even though the economic contingencies of the crisis led to a revival of cross-class coalitions at workplace level, IG Metall tried to extend the short-time work arrangements to agency workers and offered them support services; since 2012, agency work has become central again for the union bargaining agenda. Overall, in this latter phase IG Metall strategies aim at including all

workers into its bargaining domain, reflecting its identity as an industrial union.

We have shown that this strategic change is linked to the perception of possible alignment of interests between the actors. This was affected by an institutional change, the Hartz reforms, which represented a “turning point” for employers’ use of agency workers. Unions have increasingly perceived agency work as a threat to collective agreements and union position. Under these conditions, the interest alignment between labor and the management, which allowed employers’ segmentation strategies in the previous phase, became unacceptable to the union. We argue that the inclusion of agency workers by IG Metall was driven by concerns regarding the interest of core employees, threatened by employers’ strategies. As liberalization and labor market deregulation undermined even its traditional strongholds, the union enlarged its boundaries of representation to effectively represent its constituencies.

The table summarizes our analysis:

-----Summary table about here-----

## **9 Conclusion**

Exclusion and inclusion of the peripheral workforce represent the two sides of unions’ strategies in segmented labor markets. While the literature has either focused on one or the other, our longitudinal analysis has considered them as subsequent phases of a strategy in constant evolution; this has allowed exploring the conditions under which unions choose an exclusive strategy – acting according to the logic of enterprise unionism – or an inclusive approach that reflects the ideals of industrial unionism. Our analysis of unions’ perceptions in regard to agency work has revealed that the options unions have for aligning their interests with external actors are a central explanation for this strategic choice. This is affected by changes in the institutional setting, which reconfigure constraints and opportunities for actors.

Our paper contributes to the broader literature on unions’ role in (increasingly) segmented labor markets (i.a. Lillie & Greer, 2007; Doellgast, 2012; Adler *et al.*, 2013). In particular, our findings question the arguments of the dualization literature, which describes dual labor markets as stable outcome of the institutional compromise between management and labor. The (perceived) competition between standard and agency workers and the following change in the interest alignment questions this emphasis on stability. Liberalization opens up loopholes employers can exploit for circumventing legal and collectively agreed standards, also in the so-called core of political economies. By doing so, in the long run employers challenge the boundaries between core

and periphery and undermine labor bargaining power. Under these conditions, the alignment of interests between unions (and their core workers) and the management is not sustainable. Our findings suggest that adopting broad working-class solidarities and encompassing bargaining goals might be the only possible way to protect core constituencies under the liberalization processes all political economies have recently experienced.

It appears that our argument can be generalized to apply to other groups of workers, sectors and countries, where unions have engaged with so-called outsiders in response to core-periphery competition. For instance, in 2007, the service union Ver.di ran a campaign for statutory minimum wages in the postal sector. The campaign aimed at reducing the wage differentials between employees of the former incumbent and those of newly established competitors which put the German Post employees under pressure and instigated a downward spiral in the entire sector because employers used these differences strategically to their favor (Brandt *et al.*, 2008: 84f.). In Finland, unions bargained on behalf of posted workers in order to stop the pressure experienced by their rank-and-file (Lillie, 2012: 149); French unions have supported pro-outsiders labor market reforms in order to prevent outsiders from replacing their core constituencies (Vlandas 2013).

We conclude with a suggestion for further research. We have illustrated on the basis of a longitudinal analysis of union strategies that the alignment of interests between unions and management or outsiders depends on the competition between core and peripheral workers. More work is welcome to extend this mechanism in order to explain variation across countries or sectors - different institutional contexts, production strategies and skill structures are likely to affect employers' strategies and the competition between labor market segments.

## 10 Literature list

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<sup>1</sup> The special body of the Christian Unions on agency work has been declared as unable to bargain collective agreements since 2003 through the rulings of the Berlin Labour Court and Federal Labour Court in 2011.