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Collective Bargaining and Temporary Contracts in Call Centre Employment in Austria, Germany and Spain

ABSTRACT ■ This study compares the effectiveness of bargaining institutions in regulating temporary contracts in Austrian, German and Spanish call centres. Unions' capacities to bargain over the expansion and conditions of temporary contract use are shaped by bargaining structures and state regulation of various temporary contract types. National capacities to regulate the use of outsourcing and coordinate collective agreements with workplace bargaining are particularly effective in limiting the use of temporary contracts. Nonetheless, cross-national analysis indicates that employers are adept at exploiting very specific forms of temporary contracts in order to circumvent regulations and evade collective bargaining.

KEYWORDS: comparative industrial relations ■ outsourcing ■ service work
■ temporary work ■ trade unions ■ works councils

Introduction

Unions in many European countries have been late to develop bargaining capacities to improve working conditions of temporary workers. Fixed-term employment, temporary agency employment, wage-limited part-time contracts and the expansion of solo self-employment confront unions with a growing segment of the labour force with little employment security and wage and benefit levels undercutting collective agreements and the legal minima covering regular 'open-ended' employment contracts. In some countries, bargaining decentralization creates hurdles for regulating the expansion of temporary contracts. For many types of temporary work, employment relations in Europe are coming to resemble liberal rather than coordinated market economies. The evidence suggests that in national contexts with strong legal employment protections, the use of temporary contracts may be greatest. Until the mid-1990s employers were

restricted by legal limits on their use, and unions attempted to maintain restrictions preventing regular workers being replaced by temporary workers. With the widespread deregulation of temporary agency and fixed-term employment since the late 1990s, the insecurities connected with such contracts have become more pronounced. Unions in a number of European countries are responding by seeking better regulation of the social and material risks attached to such employment contracts. We view these efforts as an extension from the traditional union strategy of *containing* temporary employment, to *combatting* the precarious aspects of such contracts.

This article compares the effectiveness of union bargaining in restricting and regulating temporary contract use in Austria, Germany and Spain. The selection of these countries is based on systematic differences in union bargaining and approaches to the deregulation of temporary employment contracts. We examine employer strategies and union responses in call centres, drawing on comparative case studies and an enterprise survey conducted as part of the Global Call Centre industry project (see Introduction to this special issue). We begin by comparing the bargaining structures of unions in the three countries, and their capacities for regulating workplace employment contract decisions. Unions face two types of hurdle in bargaining effectively over temporary contracts. The first is outsourcing, which may be used to move jobs from enterprises covered by bargaining and with works councils either to new subsidiaries or to subcontract firms without bargaining coverage or worker representation. Outsourcing is associated with a higher use of temporary contracts, and we explore the extent to which it is a strategy for evading union influence over staffing decisions.

A second hurdle is the increasing heterogeneity in types of temporary contracts and the regulatory loopholes they make available to firms for evading union influence and labour representation. While unions in many European countries have developed bargaining capacities for regulating temporary agency work, their capacities lag behind in bargaining over two relatively new types of temporary contract: freelancing in the form of solo-self employment, and forms of wage-limited part-time work, both exempted from aspects of wage and benefit regulations. The heterogeneity of temporary contract forms and national variations in their regulation is compared in the second section.

The use of specific contract forms in call centres in each country are systematically compared in the third section in relation to bargaining capacities of unions and employer strategies to evade bargaining coverage. In the interplay of union bargaining attempts and firm evasions thereof, we show that regulatory loopholes and outsourcing play particularly prominent roles in employer drives to reduce labour costs and increase the use of temporary contracts.

Union Bargaining and the Regulation of Temporary Contracts

The centralization of collective bargaining, the span of bargaining coverage and the incorporation of outsourcing practices and subcontractors into collective agreements are key aspects of union capacities, shaping the ability of unions to extend their coverage to service workplaces like call centres (Deery and Walsh, 2002; Doellgast, 2008) and to temporary contract workers (Shire et al., 2009; van Jaarsveld et al., 2009). Austria, Germany and Spain differ systematically on all of these dimensions. Austria has the most centralized bargaining structure in Europe and exceptionally high coverage of collective agreements (see Introduction to this issue for data). German bargaining capacities and coverage were historically strong in manufacturing, but the expansion of service work and the unification of Germany have triggered decentralization of bargaining and declining coverage. Moreover, the declining coverage of work councils has eroded the workplace supports for union bargaining (Hassel, 1999). Spain has neither centralized nor decentralized, but rather fragmented collective bargaining (Visser, 2004). Collective agreements are possible at national, sectoral, regional or company-levels. While coverage is estimated at 80 percent nationwide in 2006 and 100 percent in call centres, differences between levels and sectors of agreements enable employers to seek inclusion in the least restrictive agreements.

These national bargaining structures affect levels and provisions of bargaining coverage in call centres. Virtually all call centres in Austria and Spain are covered by collective agreements (Schönauer, 2005; Valverde et al., 2006). In Austria mandatory membership in the *Wirtschaftskammer* means that all firms are covered by collective agreements. Already over a decade ago, the trade-union confederation ÖGB incorporated subcontracting call centres into the national agreement for miscellaneous business services. While the provisions in this agreement are not as generous as the sector agreements covering in-house call centres, encompassing inclusion of sub-contract call centres in collective bargaining is an important mechanism for preventing employers from using outsourcing in order to evade unions. Austrian unions have also achieved protections for workers when their employer decides to outsource their jobs. These provisions ensure that call centre agents are not dismissed because of outsourcing, and that their wages remain the same for up to one year following the transfer of jobs to external call centre operators (Holst, 2008).

Bargaining structures in Germany do not constrain employers from using outsourcing to evade union representation. Membership in employers' associations also regulates participation in collective bargaining in Germany, but such membership is optional. The 'near-shoring' of in-house call centres to eastern Germany, and in recent years an escalation

of outsourcing in the east, have placed a growing proportion of call centres outside the purview of industry and enterprise bargaining. In telecommunications and banking, both sectors with stronger than average inclusion in collective agreements and with a higher than average proportion of works councils, firms seek to evade bargaining by moving call centre services to newly established subsidiaries or to subcontracting centres, and unions require considerably well-coordinated bargaining capacities to regulate such moves (Doellgast, 2008). The steady decline of union density in Germany increases the likelihood that works councils established without collective bargaining coverage behave more cooperatively than in centres with dual representation structures. Our survey data indicate that half of all call centres in Germany are without any form of interest representation: 23 percent have only a works council, and the same proportion are covered by a collective agreement and a works council.

Spanish unions, like their Austrian counterparts, succeeded in incorporating call centres into collective agreements. In Spain this has been accomplished by a national level agreement specifically covering call centres. In comparison to national agreements covering general and specific service industries, the call centre services agreement guarantees better wages, protections against project-related dismissals (for example, in the case of client-specific outbound marketing campaigns) and a better regulation of working conditions such as hours and breaks. Bargaining fragmentation however means that employers can seek coverage under a range of other collective agreements to avoid protections guaranteed in the call centre agreements. In other cases, where in-house call centres are covered by sector agreements with better protections (as in banking), firms often establish subsidiaries for their call centre operations in order to opt out of the sector and into the call centre agreement. As in Germany, low union density also increases the likelihood that works councils will behave cooperatively.

To summarize, the national differences in bargaining structures and union density yield different rates, types and effectiveness of coverage of call centres in collective agreements. Moreover, these differences create different possibilities for employers to use outsourcing as a strategy for evading collectively bargained working conditions. Austrian call centres are fully incorporated into collective bargaining and in many cases dual representation through works councils. Moreover, higher union density helps ensure union influence at enterprise level. In German enterprises with dual representation (collective bargaining and works councils) the evidence also points to better regulation of employment conditions; but such dual representation is largely lacking in the service sector (Bosch and Weinkopf, 2008). Firms can opt out of employers' association membership, establish subsidiaries or move call centre jobs to subcontractors so as to evade union bargaining. Subcontracting call centre jobs to the eastern *Länder*, an

intra-national form of 'near-shoring', is an especially important option for union evasion in this case. On the surface, Spain seems to have included call centres in encompassing bargaining coverage, but the fragmentation of bargaining creates multiple opportunities for employers to opt into and out of agreements with quite different provisions. Low union density, as in Germany, makes it difficult for unions to take advantage of firm-level information rights of works committees to improve local level bargaining or to police the application of the appropriate collective agreements.

Differences in bargaining coverage shape the extent to which unions can influence decisions about employment contracts. The most direct form of influence is when collective bargaining is complemented by works council codetermination rights over hiring decisions at the local level. As shown in the Introduction to this issue, roughly half of Austrian and German call centres and 60 percent of Spanish have a works council. In Austria and Spain where bargaining coverage is broadest, we expect stronger capacities for unions to influence hiring decisions at the workplace level. Between the three countries however, differences exist in the strength and rights of councils to influence enterprise decisions. The weakest are the *comités de empresa* in Spain, with only information and consultation rights; council members interviewed in call centres reported often receiving information about hiring and contracts too late to influence the decisions. Some managers reported setting up the councils themselves, before the union could, in order to ensure a 'friendly' *comité*. In Austria and Germany works councils (*Betriebsräte*) have much stronger statutory codetermination rights. In a German telecommunications workplace, for example, employers wanted to hire agency workers into new positions, but the works council in this case could coordinate bargaining with the national union to influence headquarters to force the employer to hire internal trainees who had completed their dual vocational training. But in Germany half the councils in call centres are in enterprises not covered by collective agreements. 'Stand-alone' works councils may not be as 'friendly' as some of the employer-chosen Spanish *comités*, but their vulnerability to managerial pressures is greater than under coordinated bargaining structures.

In Austrian and German workplaces with coordinated collective and workplace bargaining, councils do effectively restrict the expansion of temporary contracts, and bargaining coverage does effectively regulate working conditions. Absence of workplace representation in all three countries weakens influence over enterprise-level staffing decisions. In Germany where half of all call centres have no form of union representation, and 'stand-alone' works councils comprise another quarter of call centres, bargaining capacities are weaker overall than in Austria. They are weakest in Spain, where despite high bargaining coverage, fragmented bargaining, low union density and weaker workplace bargaining capacities

enable employers to manoeuvre past legal constraints on staffing. Given comprehensive bargaining coverage in Austria and Spain, 'stand alone' works councils do not exist, but the absence of councils can be expected to affect the capacities of unions to regulate enterprise-level decisions over staffing decisions.

Temporary Contract Regulation and Use in Cross-National Comparison

These differences in the capacities of unions to influence enterprise-level hiring decisions are associated with different patterns of temporary contract use. The cross-national differences are also shaped by state regulatory approaches governing regular 'open-ended' employment and various forms of temporary contracts. Strong employment protections in all three countries, in the form of notification and severance payments for dismissals, mean that dismissing employees with regular employment contracts can be quite costly (see Introduction to this special issue). Non-wage labour costs covering regular workers represent 30 percent or more of total wage costs in all three countries, and these can be evaded to varying degrees through the use of different types of temporary contract. In this section we outline the benefits to enterprises in using temporary contracts, and compare their use in Austria, German and Spanish call centres.

In the legal context of strong dismissal protections in all three countries, managers distinguish sharply between employees on 'regular' contracts (*unbefristete Beschäftigung* or *contrato indefinido*), to whom dismissal protections apply, and those with any form of 'fixed-term' contract (*befristete Beschäftigung* or *contrato de duración determinada*), not covered by most aspects of dismissals protections. Fixed-term contract regulations, which tend to involve limits on contract renewals, vary across the three countries. Austrian regulations are the strictest and prohibit contract renewals after the first fixed-term, when employees, barring special circumstances, should receive an unlimited contract. These regulations are stricter than the 1999 EU Directive on fixed-term contract work. Both German and Spanish regulations are aligned with the Directive, placing limits of two years and three renewals for such contracts. Recent regulatory changes in Germany have relaxed the renewal regulations for fixed-term contract workers, to take full advantage of the exemptions permitted by the EU Directive. An important exception to renewal restrictions in Spain concerns the 'special project contract' (*contrato por obra y servicio*). Contract terms for project contracts are not fixed by law, but rather aligned with the duration of a work project as defined by employers. This type of contract gives employers, in their definition of

projects and project duration, far more leeway in fixing contract duration than that afforded by the usual fixed-term contract.

Table 1 presents labour force and survey data for different types of temporary contracts, comparing the use of such contracts in Austria, Germany and, with data restrictions, Spain. Both the labour force and call centre shares of fixed-term contract work align with the national degrees of regulation. The overall rate is exceptionally high in Spain yet double the national average in call centres, with two-thirds of agents on fixed-term contracts, and with widespread use of *obra y servicio* contracts. The rapid expansion of fixed-term contracts has been taken up by unions in bargaining, and collective agreements covering the call centre sector now stipulate that a minimum of 30 percent of all agents must be on regular 'open-ended' contracts. This would seem a very low threshold, yet interviews with workers' representatives in call centres indicate widespread non-compliance, with many enterprise workforces well over the 70 percent mark for fixed-term contracts. Germany and Austria, with tighter regulations, have far lower proportions of fixed-term contracts overall. However, the use of fixed-term contracts in German call centres is double the overall rate, while in Austria the proportion is much lower.

The rest of this section focuses on Austria and Germany, where the call centre survey included questions about sub-categories of temporary contracts, not matched in the Spanish survey. The additional questions covered the numbers of agents working in temporary agencies, as freelancers and in a category of temporary part-time work specific to Austrian and German employment regulations, wage-limited part-time work. The exemption of agency workers from employment protections and unemployment insurance would seem to make temps an attractive alternative to regular employees for Austrian and German employers. In both countries, and in Spain, temporary agency workers are well covered in collective agreements. In Germany, where overall bargaining coverage is lower, temporary agency worker coverage is estimated above average at 80 percent. The surprising success of unions in bargaining for such workers is due to new bargaining structures established by unions and employers under government pressure, following deregulation of the industry in 2003 (Vitols, 2008). Even with high bargaining coverage, agency work levels are double the national rates in Germany and much higher in Austria. In neither country, however, is agency work the dominant form of temporary contract.

In Germany, wage-limited part-time work (*geringfügige Beschäftigung*, also called *Mini-Jobs* or *400-Euro-Jobs*) follows fixed-term contracts as the most common form of temporary contract. State regulations in Austria and Germany have created a special category of wage-limited part-time work, currently limited to a monthly salary of €400 in

TABLE 1. Percentage of Temporary Contracts in National Labour Forces and Call Centres

	Austria		Germany		Spain	
	National	Call centres ^a	National	Call centres ^a	National	Call centres ^a
Fixed-term ^b	5.4	0.9 (6.2)	8.1	16.2 (23.5)	34.4	67.5 (25.5)
Temporary agency	1.4	10.1 (15.8)	1.5	3.2 (7.1)	0.8	–
Wage-limited part-time	7.4	2.6 (8.7)	18.1	7.2 (17.4)	–	–
Freelance	1.5	33.9 (40.9)	9.4	1.8 (10.1)	16.2	–
All temporary contracts ^b		46.5 (35.8)		12.6 (20.4)		

^a Weighted by the number of call centre agents, mean percentage of employees on each of these contract types (standard deviations in parentheses).

^b A separate set of questions asked about fixed-term employment, and responses cannot be added together with the other forms of temporary contracts.

Sources: Austrian labour force data: fixed-term contracts (without apprenticeship) and freelancers for 2005 from *Arbeitskräfteerhebung*, 2005 (Statistik Austria, 2006); wage-limited part-time for 2005 are own calculations from BALIweb database; temporary agency data are own calculation from *Arbeitskräfteerhebung*, 2005 and BMAW. German labour force data for are for 2005 (Keller and Seifert, 2006) except for freelancers, defined as 'solo-self-employed', from OECD (2000a, cited in Gottschall and Kroos, 2006). Spanish labour force data are all 2006 (INE, 2006). Estimates of temporary agency workers, for which there are no direct statistics in Spain, are for 2004 from European Foundation (2006). Call centre data from the GCC surveys.

Germany and €357.74 in Austria. Current laws do not set limits on hours worked for this specific category of part-time work, meaning that actual hourly wage rates can vary a great deal. Changes in the regulations in Germany under the previous 'red-green' coalition government stipulated employer contributions, mainly for pensions, which typically amount to a non-wage benefit contribution of 23 percent, still below the 33 percent employer contribution for regular employment contracts. The feminization of part-time employment and the continued dependence of wives and mothers in Austria and Germany on benefit coverage through their husbands helps explain the creation of this category of part-time work. In Germany the recent expansion of *Mini-Jobs* accounts in part for the establishment of a growing segment of low-wage labour in services (Bosch and Weinkopf, 2008). However, the shares of *Mini-Jobs* in both German and Austrian call centres are below the national averages (see Table 1).

The most important category of temporary contract in Austria is a new type of dependent self-employment, or freelance contract (*freie Dienstnehmer*). Under Austrian tax law, freelancers are self-employed and thus not covered by protections applying to dependently employed persons. Since 1998, when both unions and social insurance agencies became concerned about the use of freelancers to avoid social insurance contributions, various categories of self-employment were included in mandatory health and pension insurance schemes, and since 2008 also in unemployment insurance, but freelancers are not eligible for sick leave or vacation pay. Given their tax status as self-employed, freelancers are not covered by collective agreements and they are not eligible to vote in works council elections. Nonetheless, Austrian unions made the shift to organizing and developing strategies for improving the employment conditions for freelancers; and employers responded by manipulating the status between self-employed with and without a business licence, to circumvent some of the new protections for formally self-employed workers (Pernicka, 2006; Pernicka et al., 2004). Between 1998 and 2003, the number of freelancers in the Austrian labour market increased by 63 percent (Pernicka et al., 2005). The proportion of the national labour force remains minimal, but in call centres it is a remarkable 34 percent. In Germany, where solo self-employed freelancers represent the closest equivalent to *freie Dienstnehmer*, the average share was less than 2 percent of the call centre workforce.

In sum, cross-national differences in employment regulations and bargaining coverage shape the availability of different types of temporary contracts. In all three countries, temporary agency work is relatively well covered by collective bargaining, and does not represent the dominant form of temporary contract use in the call centre sector. In each country,

specific types of temporary contracts are chiselled out of their regulatory contexts, and take shape as particular evasions of dismissals restrictions and non-wage benefits. In Spain, special project contracts enable employers to evade restrictions on contract renewals for fixed-term workers. In Austria, employers turn to *freie Dienstnehmer*, not only to evade employment protections and reduce non-wage labour costs, but also to circumvent bargaining coverage. The Spanish *contrato por obra y servicio* and the Austrian *freie Dienstnehmer* are functionally equivalent contract forms, in the sense that both allow employers to evade limitations on temporary contracts. In comparison, German call centres use a broader mix of temporary contract forms; but in combination these still represent a lower overall average of temporary contract use than in Austria and Spain. But then half of all call centres in Germany are not covered by any form of union bargaining, and the presence of 'stand-alone' works councils in a further quarter of call centres weakens union influence over dismissals, wages and working conditions.

Table 2 reports percents of call centres using temporary contract forms (incidence), differentiated by types of contract in Austria and Germany, and for fixed-term contracts only in Spain, based on the available enterprise survey data. Regardless of national regulatory or bargaining differences, most call centres use some form of temporary contract. Qualitative research confirmed the dominance of fixed-term, and especially special project contracts in Spanish call centres. As Table 1 revealed, Spanish call centres have the highest percentage of fixed-term workers, the only category surveyed there, while the proportions are much lower in Germany and lower still in Austria. The high proportion of freelancers in Austria is matched by the fact that 40 percent of call centres use such contracts. Given weaker bargaining coverage in Germany, it may seem surprising that employers do not take greater advantage of the opportunities to hire

TABLE 2. Incidence of Temporary Contracts in Call Centres

Percentage of call centres using	Austria		Germany		Spain	
	%	N	%	N	%	N
Fixed-term contracts	12.5	96	48.3	145	69.9	103
Wage-limited part-time	23.9	92	24.8	137	–	–
Freelancers	39.6	95	16.4	152	–	–
Temporary agency	7.3	95	17.1	152	–	–
Any form of temporary contract ^a	61.5	95	40.9	152		

^a Does not include fixed-term category, which was surveyed using a separate series of questions. Call centres using more than one form of temporary contract are counted only once in this figure.

temporary workers. But weaker bargaining coverage also means less regulation of regular contracts, and thus less reason to circumvent regulations by using temporary contracts.

Determinants of Temporary Contract Use

In this section we continue to analyse the impact of bargaining structures on temporary contract use in the three countries. In Austria and Spain, where collective bargaining coverage is comprehensive, we focus specifically on the presence or absence of workplace bargaining institutions and their influence on the use of temporary contracts. This part of the analysis compares results to contract patterns in those German call centres with collective bargaining or works councils (or both). We then return to the other major hurdle which unions face when they bargain over staffing levels: the outsourcing of call centre jobs. In this part of the analysis we compare temporary contract use in in-house and subcontract call centres. The analyses of survey results are interpreted by drawing on qualitative interviews with managers and unions, to uncover the interplay of enterprise staffing practices and union responses.

Table 3 presents an analysis of variance, where we use the *t*-test statistic to test for significant differences in the intensity of temporary contract use in relation to collective bargaining. These analyses were conducted separately for each country. In Germany the bargaining measure refers to centres with collective agreement coverage or works council representation, or both. Bargaining coverage is comprehensive in Austria and Spain, but the presence of works councils varies widely; hence our measure compares the presence or absence of works councils. Temporary contracts are indicated by five different measures, as in the previous section. The first is based on a question about the proportions of call centre agents on fixed-term contracts; as noted above, this is the only measure available for the Spanish data. Three additional measures available for Austria and Germany cover specific forms of temporary contracts, and a final indicator is a numerical sum of these three specific forms.

The findings suggest that differences in bargaining structures affect the use of temporary contracts. In Spain, where bargaining is fragmented, fixed-term contracts are used more intensively in call centres *with* workplace bargaining institutions, almost at the 70 percent level permitted by collective agreements. In contrast to Spain, the use of fixed-term contracts is significantly lower in German call centres covered by collective bargaining and/or works councils than in those without. In Austria, all enterprises have low use of fixed-term contracts.

TABLE 3. Bivariate Analyses of Bargaining Indicators and Temporary Contract Use (% of agents; *t*-Test)^a

Variable	Austria			Germany			Spain		
	Present	Absent	Sig.	Present	Absent	Sig.	Present	Absent	Sig.
Fixed-term	1.1	0.6	0.348	10.6	29.0	0.000	69.1	41.5	0.000
Temporary agency	16.5	0.8	0.000	4.2	2.1	0.004	—	—	—
Freelance	14.9	61.6	0.000	0.2	2.5	0.007	—	—	—
Wage-limited part-time	1.0	4.9	0.000	2.4	14.8	0.000	—	—	—
Sum temporary contracts ^b	32.4	67.3	0.000	6.8	19.4	0.000	—	—	—

^a Averages weighted by the number of call centre agents.

^b Does not include fixed-term category, which was surveyed using a separate series of questions.

In Austria and Germany, temporary agency employment use is most intensive in call centres with workplace bargaining. Unions in both countries have extended bargaining to temporary agency workers, and these results suggest that unions are regulating rather than restricting their use. The presence of works councils in Austria and any bargaining in Germany significantly lowers the intensity of freelance and wage-limited part-time contract use in call centres. The strongest impact of bargaining coverage is not on the decentralized German but rather on the highly centralized Austrian system, where freelancers are four times more prevalent in call centres without works councils than in those with councils. The findings suggest that the absence of workplace bargaining institutions within a centralized bargaining system may have the strongest consequences for the use of contracts which evade established employment standards.

Table 4 reports a similar set of analyses, comparing the intensity of temporary contract use in in-house and subcontract call centres across the three countries. In Spain subcontract centres are significantly more likely to use fixed-term contracts. In Germany and Austria, the proportions of fixed-term and temporary agency workers are slightly higher in-house, only significantly so for fixed-term contracts in Austria. Stronger restrictions on fixed-term contracts in Austria and Germany, and bargaining coverage of agency workers seems to make these contract forms no more attractive to subcontractors than to in-house providers. The reverse is true for freelancers in Austria and wage-limited part-time employment in Germany and Austria. Austrian subcontractors, despite better bargaining resources for regulating the effects of subcontracting on employment, make much stronger use of freelance contracts. The proportions of wage-limited part-time work are much higher in both Austrian and German subcontract centres than in-house. Multivariate analysis of the relative impact of bargaining presence and subcontracting on the intensity of temporary contract use showed that subcontracting is the more powerful predictor (Shire et al., 2009). These analyses controlled for skill investments, average human capital levels of workforces and a range of service industry and organizational variables. They did not however, differentiate between specific forms of temporary contract use, nor did they analyse differences in bargaining structures, which, as we think the results here show, should be taken into account.

Case studies in a selection of subcontract call centres in all three countries help to tease out some of the dynamics tangled into these statistical associations. In two subcontract centres in Austria, both founded in 1999, all employees were on freelance contracts. By composing the entire workforce out of freelance contracts, these Austrian centres could evade bargaining agreements and the establishment of works councils. At the time the study was conducted, freelance agents in these centres were

TABLE 4. Bivariate Analyses of Temporary Contract Use by Organizational Type (% of agents; *t*-Test)^a

Variable	Austria			Germany			Spain		
	In-house	subcontract	Sig	In-house	subcontract	Sig	In-house	subcontract	Sig
Fixed-term	1.5	0.4	0.020	17.9	15.5	0.159	49.3	74.1	0.000
Temporary agency	10.7	9.6	0.096	4.1	3.3	0.294	—	—	—
Freelance	25.7	41.4	0.000	0.4	1.1	0.256	—	—	—
Wage-limited part-time	0.9	4.2	0.000	1.2	7.9	0.000	—	—	—
Sum temporary contracts ^b	37.3	55.2	0.000	5.7	12.5	0.000	—	—	—

^a Averages weighted by the number of call centre agents.

^b Does not include fixed-term category, which was surveyed using a separate series of questions.

excluded from unemployment insurance, holiday entitlements, paid sick leave and other non-wage benefits, and managers reported the importance of cost factors in using freelancers. Moreover, most freelancers were employed part-time without fixed hours or schedules of work, enabling managers to use them in an extremely flexible manner.

One of the Austrian subcontract firms we studied had recently entered into a new service contract with a public sector department which, under pressure to improve telephone services, had decided to outsource further call services rather than expanding employment in its in-house customer service department. The motivation was mainly cost savings. The new centre set up by the subcontract firm employed only freelance staff, with net monthly pay rates of €900, compared to €1900 received by customer service workers in the public sector department. The union representing the public sector organization did not initially oppose the decision to outsource jobs, since collective agreements guarantee that such moves will not affect in-house jobs in the centres. Once the widespread disparities in working conditions caused by the use of freelancers became evident, the white-collar union GPA (*Gewerkschaft der Privatangestellten*) established a sector-wide campaign, with the support of social insurance providers, and successfully forced the new subcontract centre to award regular contracts to its freelance staff. While these are relatively new initiatives, our statistical evidence indicates that such successes at present are rather limited in their impact.

Spanish employers have myriad strategies for avoiding collective agreements, opting in and out of agreements at various levels and sectors. Affiliation to a specific industrial sector is the main factor determining bargaining coverage, and changing sector affiliation is a mechanism for exiting and entering coverage under different agreements. Strict dismissal protections motivate employers to use temporary contracts in order to evade severance payments, which are at the rate of 45 days' pay per year of tenure in cases of unfair dismissal. Works council rights at local level are weak, and unions reported flagrant violations by employers, who often pass information on to worker representatives very late or in a form requiring a great deal of effort to analyse properly. Unions also reported frequent violations of the 70 percent limit for fixed-term contracts in collective agreements covering the call services industry. In many cases employers simply report belonging to another industry, where the call services agreement does not apply.

Unions have responded by publicizing such incorrect registers in industrial classifications, in order to force employers into coverage by the correct agreement. In other cases where coverage was correct, employers delayed providing information about contracts to the unions. In an industry with high turnover even without temporary contracts, obtaining accurate information without employer compliance is nearly

impossible. But even where coverage is correct and the rule abided by, unions are faced with representing workforces comprising 70 percent fixed-term employees. We found little evidence of union strategies for improving working conditions. The most important effort of Spanish unions in the call services sector at present is to try to encourage temporary and permanent employees to elect worker representative and works councils. But here too, employers strike back. As one employer described to us, managers pre-empt union efforts by choosing their own worker representatives:

We simply found a 'nice girl' to be the workers' representative from the very outset, so she won't bother us too much. The important thing is to look good on paper. We involve her in plenty of pro-worker activities, including organizing birthday parties. We give her a whole lot of information, the more papers we give, the less they'll read. And we let her attend meetings from the personnel department. She is not that bright and everyone is happy.

In Germany, outsourcing of jobs by in-house call centres was blocked initially in industries like telecommunications, where works councils and unions can coordinate bargaining (Doellgast, 2008), but recent developments in these industries demonstrate that union capacities are limited (see Doellgast et al., in this issue). Increasingly, the traditional pattern of coordinated bargaining has become a motivation for employers to outsource call centre jobs. German telecommunications firms, and in the wake of the financial crisis also banks, have been able in recent years to push forward outsourcing more jobs. Unemployment and lower rates of negotiated wages in the East German *Länder* have drawn a number of subcontract enterprises into this region in search of labour cost savings. Our case studies even include cases of in-house call centres setting up branches in the east in order to take advantage of lower labour costs. On average, higher rates of temporary contract use were found in the east (15 percent) than in the west (10 percent). A manager in one large subcontract company located in the east explained the advantage in reference to wage rates: 'in [the eastern *Länder*] it is most advantageous because we pay on average 20 percent less than in [the west]'. Case studies indicate that the large subcontract enterprises, especially in the east, have higher proportions of temporary contract workers. In one eastern city we found a call centre, established in 1998, employing nearly 100 percent wage-limited part-time workers; only the director has a regular contract. Employees worked on average four hours a day, to earn a net €6.00 or €7.00 per hour.

In case studies of call centres in Poland, conducted in conjunction with the German research, call centres offering German-language services for the German market typically used large numbers of temporary agency

workers. The average gross hourly wage for Polish call centre employees was €2.80 (Piskurek and Shire, 2006). While the use of temporary contracts overall was lower in Germany than in Austria or Spain, outsourcing to eastern Germany and beyond represent alternative strategies for employers who aim to drive down labour costs and evade union bargaining capacities (see also Batt and Nohara, 2009). German unions face having to deal with ‘near-shoring’ within their own territory, to the eastern *Länder*, as well as across the national borders of the German labour market. The German developments are reminiscent of earlier waves of outsourcing reported in other national contexts (Bain and Taylor, 2002).

Conclusion

Our findings suggest that collective bargaining is most effective when national and workplace capacities are coordinated, and where bargaining is encompassing enough to block the benefits of outsourcing service jobs to the less regulated sector of subcontracted service providers. Comparing bargaining structures in Austria, Germany and Spain, we find different capacities for regulating the terms of temporary contracts, and we find that the effectiveness of bargaining depends on the specific temporary contract form and the capacity of unions to restrict outsourcing. Even in Austria, with the most comprehensive and coordinated form of bargaining, workplaces without works councils and subcontract service centres have more temporary contracts. Moreover, employers find new contract forms to evade bargaining coverage at the sectoral and workplace levels. The extremely high use of *freie Dienstnehmer*, who as self-employed are not covered by agreements and cannot vote in works council elections, is an example of employer attempts to manoeuvre around centralized and coordinated bargaining capacities.

Fragmented bargaining, weak works councils and the legal creation of regulatory loopholes in the use of fixed-term contract in Spain create opportunities for employers easily to expand the use of temporary contracts, especially in subcontract firms, but also in enterprises with workplace bargaining. In this bargaining context, unions seem to have a reverse function, where collective agreements set very high ceilings on fixed-term work, and regulations allow employers to manipulate contract forms in order to limit contract terms almost at will. Fixed-term contracts, according to call centre collective agreement, can apply to up to 70 percent of an enterprise workforce, and the levels of use comes closest to this ‘limit’ in call centres with workplace representation structures. The collectively agreed restrictions on fixed-term contracts, though weak, seem to invite employers to opt into agreements with even fewer restrictions. Moreover, the ‘capture’ of works committees by some Spanish enterprises blocks any

real challenges to managerial authority at the workplace level of bargaining. The use of special project contracts, as well as employer ability to choose between collective agreements, exemplifies the problems of regulating temporary contracts where bargaining capacities are fragmented.

The availability of more detailed data for Germany and Austria permitted a differentiated examination of bargaining capacities in relation to other specific forms of temporary contract work. In both countries, temporary agency work is well integrated into bargaining structures and the results indicate significantly higher use in workplaces with coordinated bargaining. Unions have shifted from restricting to regulating the use of temporary agency work, and inroads made in bargaining over working conditions are at least a step in the direction of improving the terms of its use. In contrast, wage-limited part-time work is regulated by law rather than through collective bargaining. Centralized bargaining in Austria is associated with lower proportions of wage-limited part-timers, and in both countries coordinated bargaining structures result in significantly lower use of such workers. Outsourcing and the absence of workplace bargaining are both strongly associated with significantly higher use of this contract form.

An important similarity across the three countries is the legal creation of specific new forms of temporary contracts, which allow employers either to evade bargaining (*freie Dienstnehmer* in Austria) and ignore even EU Directives regulating fixed-term and part-time employment (*contrato por obra y servicio* in Spain, *geringfügige Beschäftigung* in Austria and Germany). Integrating these new employment forms into established bargaining structures depends on the political capacities of unions to influence their re-regulation. This also means integrating the interests of new groups of workers – working mothers in the case of wage-limited part-time work, young and mobile project workers on new fixed-term contracts and the solo self-employed who take up freelance contracts. Our results also point to the importance of workplace bargaining capacities, necessary to influence the decisions of enterprises about staffing. Regardless of the centralization of bargaining capacities, in both Austria and Germany the presence of a works council was a key factor in regulating the use of temporary contracts. In the face of outsourcing however, as the Austrian case illustrates, the conventional equation for union bargaining strength – encompassing central bargaining coverage, coordinated with workplace level representation and bargaining – remains the best guarantee for the equal treatment of most forms of temporary contract workers.

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