

# **Co-determination in Germany: The Impact on the Market Value of the Firm\***

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## 1. Introduction

Alchian (1984) and Furubotn (1985, 1988) have argued that in a world of informational asymmetries between self interested employers and employees, and the risk of post-contractual opportunism, effective co-operation may be advantageous to both parties. In this context they emphasize the importance of firm specific skills and investments: Workers who undertake "durable reliance investments" (Furubotn 1985: 167) that are in the interests of the worker and the firm alike commit themselves to the firm for some time into the future and are therefore vulnerable. If workers are not protected by institutional or contractual safeguards against "opportunistic behavior" by other members of the coalition, they will be either unwilling to invest in the acquisition of firm specific skills and may risk serious economic loss in the case of dismissal. In a situation where not all of the coalition-specific resources are owned by a single party, co-determination is likely to be a type of governance structure that is capable of dealing with maximizing agents having conflicting interests. Irrespective of this generally favorable view of voluntary co-determination, legal intervention by the state is rejected:

"(E)fforts by government to ... reshape the firm have not led to particularly desirable results. The approach taken has emphasized the 'political' aspect of the firm and the importance of corporate governance while failing to give much attention to broader economic issues and to the relation between the firm's total property-rights structure and its performance. By granting workers major control rights without regard to their actual investment position in the firm, state programs have violated an important rule for ensuring rational allocation - namely, the rule that those making decisions should bear the full costs of the decisions they make. This defect, together with the costly system used to apportion the firm's quasi rents between workers and stockholders, means that the orthodox co-determined firm does not possess a truly efficient organizational structure" (Furubotn 1988: 178).

More generally, in their seminal paper published nearly twenty years ago, Jensen and Meckling (1979: 474) argued that for a very simple reason mandated co-determination must be detrimental to stockholder-value: "If co-determination is beneficial to both stockholders and labor, why do we need laws which force firms to engage in it? Surely, they would do so voluntarily. The fact that stockholders must be forced by law to accept co-determination is the best evidence we have that they are adversely affected by it".

This view has however been challenged by Levine and Tyson (1990) who argue that co-determination is likely to be underprovided by the market: In a typical prisoner's dilemma, all firms would benefit if they introduced worker participation but co-determined

firms require - among other things - a compressed wage structure to encourage "group cohesiveness" and dismissal protection to lengthen the time horizon of workers. Traditional firms on the other hand motivate their employees through the fear of dismissal and a sharply differentiated wage structure. It is highly unlikely that under such circumstances a participative equilibrium will emerge: The viability of a single co-determined firm will be threatened by adverse selection (it will attract the less motivated job-seekers) and externality (its best workers will be poached by traditional firms which can pay more). Hence the market will be systematically biased against co-determined workplaces and the economy will be locked in a socially suboptimal position. Mandated co-determination would overcome this dilemma by requiring all firms to introduce participatory machinery<sup>1</sup>.

Given these incompatible positions, theory gives no guidance as to the likely effects of mandated co-determination. The beneficial or detrimental effects of co-determination ought therefore to be demonstrated empirically. The following paper tries to track the impact of court decisions which extend or rescind employees' co-determination on the stock prizes of the firms concerned.

## **2. The Legal Environment**

In this paper the term "co-determination" is used to describe labor representation on corporate boards, i.e. participation of labor (employees; union representatives) in the entrepreneurial decision-making of the board ("Unternehmensmitbestimmung"). Co-determination in this sense does not encompass participation by a works council, i.e. labor representation at the plant-level ("betriebliche Mitbestimmung").

German corporate law distinguishes between the management board and the supervisory board (two-tier or dual boards system as opposed to the Anglo-American one-tier system). Co-determination refers to the representation of employees on the supervisory board. The supervisory board appoints the members of the managing board (generally for five years) and may dismiss them, though only for cause. It is responsible for monitoring the management, although practically it acts as an advisory committee rather than as a monitoring panel except in times of financial difficulty. To accomplish its duties, the board has the right to receive comprehensive information. Management must report to it

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<sup>1</sup> In a similar model, Freeman and Lazear (1995) analyze the efficiency properties of works councils. They argue that although the works council is likely to increase the joint surplus of the enterprise (as a result of information exchange, consultation and participation) the firm's profits are nonetheless expected to be lower in the presence of a works council. Therefore, management will either oppose the installation of a works council or vest it with too little power. For this reason, the institution has to be mandated by government to reach a (potential) Pareto-optimum.

periodically on all important questions, and the supervisory board reviews the financial reports and balance sheets of the firm. The board may require management to obtain its prior approval before entering into certain important transactions.

There are three different systems of labor participation on corporate boards. The one-third participation model for corporations with more than 500 employees; the full-parity model for coal and steel companies; and the quasi-parity co-determination for corporations with more than 2.000 workers.

Under the "Industrial Constitution Act" (Betriebsverfassungsgesetz) of 1952, one third of the members of the supervisory boards of stock corporations and limited liability companies with more than 500 employees is appointed by the employees and two thirds by the shareholders. The clear majority of voting power is hence held by the shareholders' representatives, putting the employees' representatives in a mere counselling position. In firms (corporations and limited liability companies) in the mining and steel industries with more than 1.000 employees, the supervisory board consists of at least eleven members (up to a maximum of 21, depending on the size of the firm). On boards with 11 members five are appointed by the employees (of them, three by the unions), five are elected by the shareholders, and a further "neutral" member (with a casting vote) is appointed by the majority of both sides of the supervisory board.

The third model is based on the 1976 Co-determination Statute. In corporations and limited liability companies outside the iron and coal industries with more than 2.000 employees, half the members are elected by the shareholders; the other half is elected by the employees and the trade unions. For instance, in a firm with not more than 10.000 employees shareholders will elect six, the employees (blue and white collar as well as lower-ranking management) four, and the trade unions two members, the highest number of all members on the board of the biggest firms being 20. If there is a stalemate in a vote by the board (a rare event), the chairman who is elected by the shareholders, rather than by the employees, has a casting vote. Because of this slight superiority of the shareholders this model is usually described as "quasi-parity co-determination".

The Co-determination Act of 1976 has been challenged by single firms and employers' associations on constitutional grounds. But the Federal Constitutional Court, in its decision of March 1st, 1979, found no merits in the claims of the complainants and rejected their contentions. Apart from this basic decision there has been a number of decisions by courts of all levels (state and federal) on co-determination issues. Parties to those

disputes comprised the employees' representatives or unions on one side and the respective firms, shareholders' or employers' associations on the other. These court-rulings may be understood and categorized as either extending or restricting co-determination although in a formal sense, courts simply apply and interpret pre-existing statute law. But if there were no different estimates of the outcomes of these judgements the litigant parties would very likely neither bring nor defend actions. Our question is whether, and to what extent, the stock market reacts to these court-rulings.

### **3. Former Studies**

Table 1 contains a detailed summary of the limited number of studies that analyze the influence of the Co-determination Act on the economic performance of German firms.

Using rather different data and test designs, Svejnar (1981, 1982), Benelli et al. (1987), FitzRoy and Kraft (1993) and Gurdon and Rai (1990) conclude that the introduction of the Co-determination Acts of 1951 and 1976 had a rather modest - if any - influence on the sectors and firms affected. The main weakness of these studies is not so much their rather small sample sizes, but the fact that they concentrate on one single event, i.e. the introduction of the Co-determination Act, without taking into consideration that at least the latter of these two Acts had been anticipated by firms (and potential investors) since the late 1960s and early 1970s. The study by Benelli et al. (1987) is the only one that takes a longer run view, but it uses annual and monthly stock return variances, which are likely to underestimate the influence of a single event. As Brown and Warner (1985) have shown, daily stock return data are especially suitable for event studies: Despite their potentially problematic characteristics, such as variance increases and unusually high autocorrelation, daily data generally present few difficulties in the context of event study methodologies. Thus, research strategies based on the OLS market model and using standard parametric tests are usually well-specified under a variety of conditions.

Table 1  
Productivity Effects of Codetermination

Author(s)	Sample/Data	Productivity Measure(s)	Indicator(s) of CD*	Effect of CD*
Benelli et al. (1987)	8 two-digit manufacturing industries 1954-1976	Annual Stock Return Variances	Introduction of Codetermination Act 1951	Although not statistically significant, the return variances are lower in industries subject to parity codetermination than in other industries. This pattern is not observed in other European countries.
	40 codetermined and 18 non-codetermined firms 1973-1983	Three Different Monthly Portfolio Return Variances Jan. 1973-Dec. 1977 vs. Jan. 1978-April 1983	Introduction of Codetermination Act 1976	The return variance of the portfolio of codetermined firms declines significantly following the imposition of codetermination. Since the same phenomenon occurs in firms not subject to codetermination, the imposition of the law had apparently no discernible impact on the stock return variance.
	40 codetermined and 18 non-codetermined firms 1973-1983	Average Monthly Stock Return Jan. 1975-June 1976	Introduction of Codetermination Act 1976	In the case of firms directly affected by codetermination, average monthly stock returns decreased by 0.008% during the period immediately preceding its imposition; in the case of non-codetermined firms the respective decline was even larger (0.013%). This difference was not statistically significant.

(continued)

Benelli et al. (1987)	42 matched pairs of firms (codetermined and non-codetermined) 1970-1976 vs. 1977-1982	Earnings Before Interest and Taxes/Total Assets Net Income/Total Equity Dividends/Net Income Total Debt/Total Assets Long-term Debt/Total Assets Current Assets/Total Assets (Current Assets - Inventories)/Short-term Debt Net Investment in Fixed Assets/Total Assets Labor Costs/Total Sales	Introduction of Codetermination Act 1976	There is no evidence at all that codetermination affects firm policies: Using parametric and non-parametric test procedures, the authors find that none of the mean comparison tests produced statistically significant results.
FitzRoy/Kraft (1993)	68 large and codetermined vs. 44 smaller and non-codetermined firms, 1975 and 1983, publicly traded, metal industry only	Value Added per Employee Total Labor Costs per Employee Return on Equity (Pre-tax Accounting Profits/Equity Capital) Total Factor Productivity Growth 1975-1983	Introduction of Codetermination Act 1976	Significantly higher in codetermined firms in 1975, but not in 1983 Significantly higher in codetermined firms in both years Difference between codetermined and non codetermined firms insignificant in both years Significantly lower in codetermined firms
Gurdon/Rai (1990)	63 large enterprises (37 affected and 26 unaffected by Codetermination Act 1976) 1970-1985	Stock Value of Plant and Equipment/Number of Employees Change in Revenue per Unit of Labor Change in Profits per Unit of Capital	Introduction of Codetermination Act 1976	The capital-labor ratio increased significantly more in firms that were not affected by 1976 legislation. The introduction of legislation led to a significantly lower productivity and a significantly higher profitability in codetermined firms.

(continued)

Svejnar (1981)	3 two-digit manufacturing industries, 1935-1938 and 1949-1976	Relative Hourly Earnings in Iron/Steel and Coal Mining compared to Textiles	Introduction of Codetermination Act 1951	Following the introduction of the Codetermination Act, hourly earnings are significantly higher in the iron and steel industry compared with the textile industry, but not in coal mining, although both industries are heavily unionized compared to the reference industry, where the Act was not introduced.
Svejnar (1982)	14 two-digit manufacturing industries 1950-1976	Value Added per Hour Worked by Production Workers	Introduction of Codetermination Act 1951 and of Works Constitution Acts 1952 and 1972	In general, the establishment of codetermination through the 1951, 1952, and 1972 laws had no perceptible effect on productivity. In mining, 1972 legislation had a significantly negative productivity effect; in iron and steel, none of the three laws had a significant impact.

\* CD: Codetermination



Moreover, tables A1 and A2 in the Appendix contain an overview of the equally small but recently increasing number of studies analyzing the influence of supplementary forms of workers' representation, i.e. unionism and works councils, on the economic performance of sectors and firms. In these studies, sectoral as well as company performance is usually measured by a variety of indicators, including productivity levels and growth, financial performance including profitability, investment in human and physical capital as well as in research and development, and job generation. Most studies on the influence of trade unions report negative, but statistically insignificant coefficients of union density on some productivity measure (usually value added, total factor productivity or gross domestic product per employee). A comparative analysis of studies looking at the impact of works councils on productivity cannot support comprehensive conclusions about the effect of workers' representation either (for a detailed evaluation Frick 1995). The variability of findings across studies using differing definitions of variables, specifications, time periods, industries and levels of aggregation does not allow us to conclude that there is an effect, much less specify its direction and magnitude (Belman 1992: 58). Thus, to the extent that a clear pattern does emerge from the empirical studies we find that co-determination does not have pronounced economic consequences one way or another (Hodgson/Jones 1989). There are several reasons why the results of these studies are controversial and inconclusive. Firstly it is apparently very difficult to isolate the productivity effects of sectoral as well as plant-level representation because an analytical approach requires large longitudinal samples with a large number of independent variables. Secondly there are other methodological problems which have not been solved yet. The most important are, first, the assumption of identical production functions in firms with and without unions/works councils and second, the problem of endogeneity of workers' representation.

#### **4. The Own Approach**

Given the shortcomings of the studies quoted and summarized above, we will pursue a different path and use the methodology of event studies (Thompson 1995, Brown/Warner 1980): In a first step we will use daily stock return data from 28 different firms that were subject to court decisions concerning the application of the Co-determination Act during the period Jan. 1, 1974 - Dec. 31, 1995 to analyze the impact of co-determination on the stock price of the respective firms. In a second step, we ask whether the rather surprising finding that the stock market did not react in a significant way can be reconciled with the assumption that for potential investors co-determination is - at least in the German context - not a signal of considerable importance. We ask, first, whether the Introduction of the Co-determination Act and second, the ruling of the Federal Constitutional Court that the Act is

compatible with the Basic Law of the Federal Republic of Germany, had any influence on the performance of those sectors most heavily affected by the decision, as due to the Act's perceived influence and the long discussion preceding its introduction, single court decisions may be of minor importance only.

Thus our empirical design combines longitudinal and cross-sectional analyses: On the one hand we study the influence of 23 distinct events (judicial decisions) that occurred over a period of more than twenty years on the price development of the shares of the respective companies and on the other hand we analyze the impact of only two events (the introduction of the Co-determination Act in 1976 and the final ruling of the Federal Constitutional Court regarding the appeal against the main provisions of that Act in 1979) on the stock market performance of six different sectors of the German economy.

#### **4.1. Data and Methods**

The stock market indices we use have been compiled in the "German Finance Data Base" (Bühler/Göppl/Möller 1993). The calculation of the global index, the so-called DAFOX, is based on all those stocks that have been traded in the official market on the Frankfurt Stock Exchange since January 1974. During our period of investigation (mid 1970s to mid 1990s), the number of securities traded remained relatively constant at about 200 for a considerable time and then increased to about 350. The DAFOX is constructed as a "hypothetic portfolio", i.e. the index value at the date of the index calculation represents the value of a portfolio which is composed exactly like the index. The DAFOX uses a variant of the Laspeyres price index formula, incorporating a chain factor for the rearrangement of index weights and the rebalancing of the index portfolio. Moreover, it includes an adjustment factor for cash distributions, representing cash dividends and capital changes<sup>2</sup>. The daily index values are computed using daily spot prices from the official price fixing at 12:30 p.m., which are weighted by the number of shares outstanding. Apart from the overall index, two market indices (for "blue chips" and "small caps") and twelve industry indices are calculated by the same method (Göppl/Schütz 1993, 1994).

In order to analyze stock market reactions to decisions made by the courts, we calculate abnormal and cumulated abnormal returns for single firms that were either taken to court by the respective industry union for not fulfilling their legal obligations, or that took the initiative and went to court to reject the union's claims. Apart from the fact that the time period under consideration is much longer regarding the analysis of market reactions to the

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<sup>2</sup> Göppl and Schütz (1994: 20-35) compare the suitability of the DAFOX with the efficiency of other stock market indices that are available for Germany on a daily basis and find that the efficiency hypothesis has to be rejected for all but one of the other indices, but not for the DAFOX.

introduction of the Co-determination Act, the same procedure is also applied there. The abnormal return is calculated as follows:

$$(1) \quad AR_{it} = R_{it} - R_{mt}$$

where  $AR_{it}$ : abnormal return of sector (firm) i at time t,  
 $R_{it}$ : return of sector (firm) i at time t,  
 $R_{mt}$ : return of the whole stock market at time t.

The cumulated abnormal return is the sum of all abnormal returns during the period under investigation:

$$(2) \quad CAR_t = \sum_{t=1}^T AR_t$$

where  $AR_t = \sum_{i=1}^N AR_{it}$

The abnormal and cumulated abnormal returns prior to, and after the change in, legislation and/or the publication of the judicial decision will be compared using a T-test.

Apart from the abnormal return, investors are interested in the risk of a specific stock: When choosing between different options, persons (and institutional investors, such as banks) prefer investments that - given the same level of risk - yield higher returns or - given the same return - are less risky. The risk associated with a specific stock consists of a systematic and an unsystematic risk. With "systematic risk" we mean risks that cannot be reduced by a (further) diversification of the portfolio, i.e. risks that are specific to the market. A measure of the systematic risk is the so-called "beta-factor": It measures the extent to which the variation of the price of a single stock is correlated with the variation of the overall stock market. A value of one indicates that there is a perfect correlation between the sector's (firm's) development and the development of the overall market. A value of more (less) than one implies that the variation of the sector's (firm's) stock price over-(under-)reacts to developments in the general stock market (Bühner 1996).

The beta-factor is calculated as follows:

$$(3) \quad \beta_{iT} = \frac{\sum (R_{it} - R_i) * (R_{mt} - R_m)}{\sum (R_{mt} - R_m)^2}$$

where  $\beta_{iT}$ : beta-factor for sector (firm) i at time t,  
 $R_{it}$ : return of sector (firm) i at time t,  
 $R_{mt}$ : market return at time t,  
 $R_i$ : average return of sector (firm) i during the period t = 1 ... T  
 $R_m$ : average market return in the period t = 1 ... T,  
T: period under investigation.

The unsystematic risk is specific to the sector or the firm, i.e. it is independent of the market and is usually called the "residual volatility". By this term we mean variations in the returns of a sector's or firm's stocks that cannot be explained by variations in the market return. High values of the volatility measure therefore point to the existence of sector (firm) specific factors which influence the return. Our measure of residual volatility is calculated as follows (Bühner 1996):

$$(4) \quad \delta_{iuT} = \sqrt{\delta_{iT}^2 - \beta_{iT}^2 * \delta_{mt}^2}$$

where  $\delta_{iuT}$ : residual volatility of sector (firm) i in the period T,  
 $\delta_{iT}^2$ : variance of the stock return of sector (firm) i in period T,  
 $\beta_{iT}^2$ : beta-factor of sector (firm) i in period T,  
 $\delta_{mt}^2$ : variance of the market return in period T,  
T: period under investigation.

The latter two measures are calculated for the two sub-periods (prior to and after the publication of a judicial decision) in order to test whether the systematic as well as the unsystematic risk are influenced by the above mentioned events. Once again we perform T-tests to confirm or reject the null hypothesis, that the events do not have any influence (for a similar research strategy Bühner 1996, Gehrke/Garz/Oerke 1995).

## 4.2. Empirical Findings

### 4.2.1. Court Decisions and Shareholder Value

Between Jan. 1, 1954 and Dec. 31, 1995 German courts decided 46 cases concerning the application of the Co-determination Act and the Act regulating co-determination in the mining and iron and steel industry. Our sample however, consists of 28 enterprises only because six of the cases under consideration were decided prior to Jan. 1, 1974, which is the date from whence daily stock return data has been available. Moreover, sixteen of the 46 decisions affected stock corporations which have either never been traded or which were not yet being traded at the time the court made its decision. In one case a shareholders' as-

sociation went to court instead of a single enterprise. This leaves us with 23 court decisions affecting 28 enterprises because in one case six enterprises - together with 29 employers' associations - lodged a joint appeal to the Federal Constitutional Court (see Table A3 in the Appendix for a list of the companies affected).

Table 2  
Structural characteristics of the decisions under consideration

decision extends co-determination	14
partly extending/partly restricting	4
decision restricts co-determination	10
company wins/union loses	10
both parties win/lose equally	8
company loses/union wins	10
relating to single enterprise	7
industry-wide importance	21
Court of First Instance	9
Appellate Court	10
Federal Civil Court	3
Federal Constitutional Court <sup>#</sup>	6

# One decision affecting six different companies

Table 2 reveals that in fourteen of the 28 cases the court decision can be classified as "extending" co-determination, while in ten cases the decision resulted in a "restriction". In four cases an unambiguous classification was not possible. In ten cases the company won the lawsuit, in ten cases it lost and in the remaining eight cases both parties had to give up their initial positions to more or less the same extent. The cases in which firms lost and the cases in which co-determination was extended are not coextensive as the classification as "lost" refers to the result of the decision whereas the classification as "extensive" looks at its content (the general wording of a decision may be "extensive" whereas in the specific case the company may still have won). About 75% of all lawsuits were of industry- or even economy-wide importance, while only 25% affected just one single enterprise. In nine cases the lawsuit was decided by a court of first instance, in ten cases by an Appellate Court and in the remaining nine either by the Federal Civil Court (n=3) or by the Federal Constitutional Court (n=6).

The empirical findings will be presented in the following order: First, we look at the abnormal returns on the event days, i.e. the day the respective judicial decision was issued. Second, we compare the short-run development of cumulated abnormal returns in the ten days

before and after the single events<sup>3</sup> and third, we present empirical findings based on an analysis of variance and regression estimates of the influence of the type of the decision reached (extension vs. restriction of co-determination) and the outcome of the court's deliberations (firm's win vs. loss).

Figure 1 shows that the average abnormal return on the event day is slightly positive, which is rather surprising, given the fact that the number of cases where co-determination rights were extended by the courts is larger than the number of cases where these rights were restricted (14 vs. 10). Looking at Figures 2-3 it appears that an extension of co-determination rights went together with a slight, but statistically insignificant increase in abnormal returns whereas a restriction went hand in hand with a decrease that also proved to be insignificant. Since the development of the abnormal returns is rather erratic and shows no discernible pattern, the cumulative abnormal returns are also, first, rather low and, second, not systematically related to the type of decision.

A similar picture emerges if we look at Figures 4-5: Neither does a company's success in the respective lawsuit lead to a significant increase of the abnormal return on either the event day or one of the following days, nor does a company loss have the opposite impact on the development of the relative capital market performance of the companies affected.

Using the (cumulated) abnormal return as a dependent variable we estimated several OLS-regressions with the outcome of the respective court's deliberations (either the firm wins, the employees' representatives win or no party wins), the basic character of the decision (restriction or extension of co-determination or compromise), the type of court involved (court of first instance, Appellate Court, Federal Civil Court or Federal Constitutional Court) and the relevance of the decision (affecting a single enterprise only or economy-wide importance) serving as independent variables (for a formal presentation of the models estimated see the Technical Appendix).

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<sup>3</sup> The size of the event window does not have any influence on the empirical findings. We experimented with periods prior to and following the respective events of 60 days, 40 days, 30 days, 20 days and 10 days respectively. This left the findings absolutely unchanged.

Figure 1  
The Short-Term Development of the Average Abnormal and Cumulated Abnormal Return

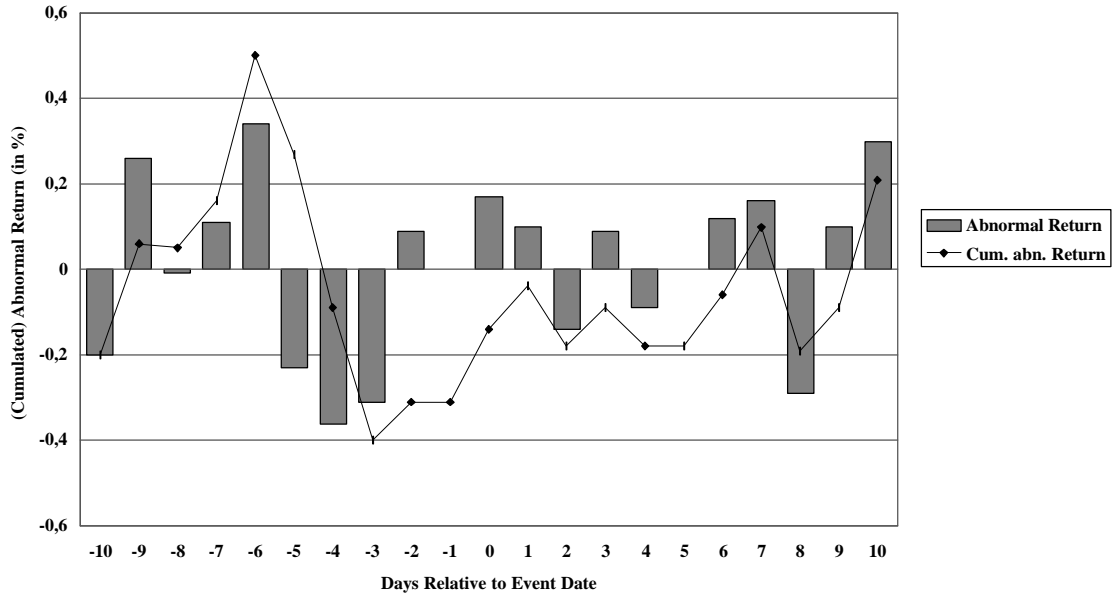


Figure 2  
The Short-Term Development of the Average (Cumulated) Abnormal Return if Codetermination is Extended

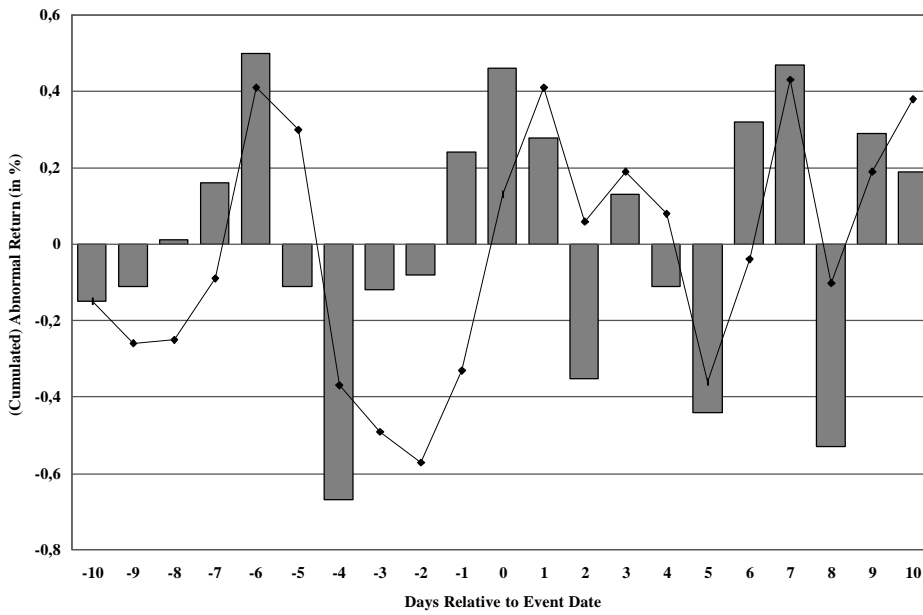


Figure 3  
 The Short-Term Development of the Average (Cumulated) Abnormal Return  
 if Codetermination is Restricted

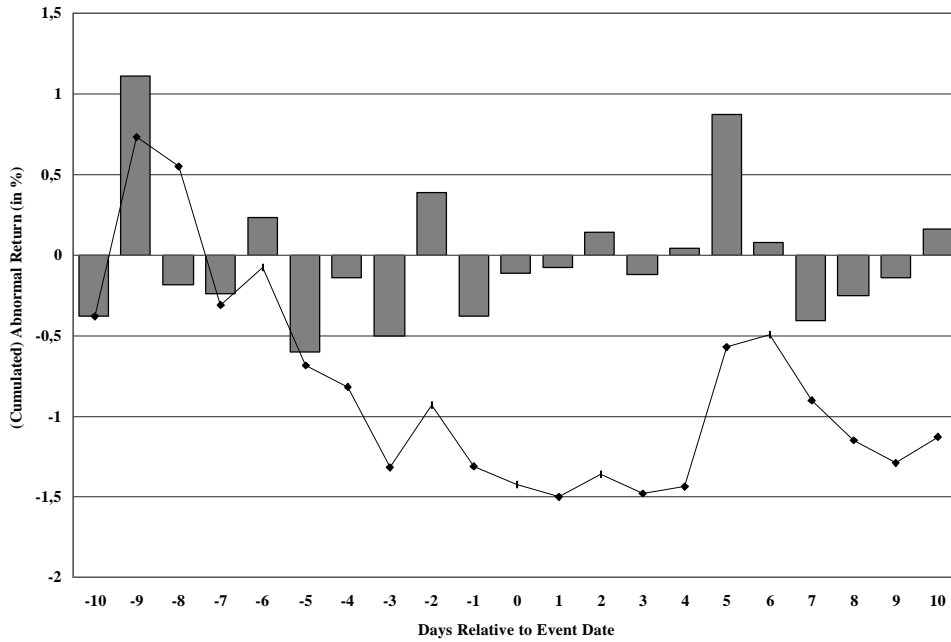


Figure 4  
 The Short-Term Development of the Average (Cumulated) Abnormal Return  
 in the Case of a Firm Win

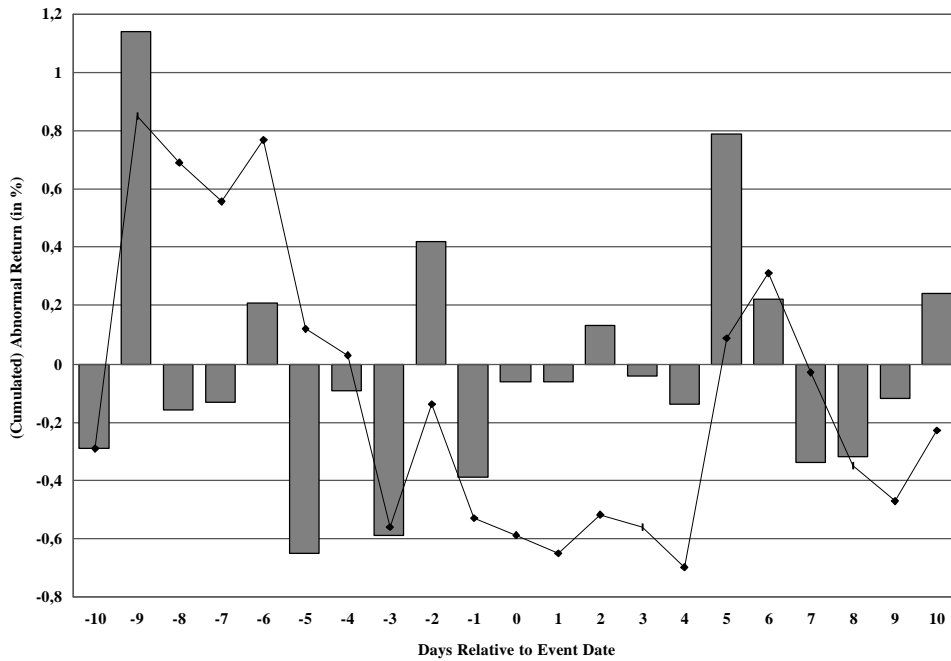




Figure 5  
The Short-Term Development of the Average (Cumulated) Abnormal Return  
in the Case of a Firm Loss

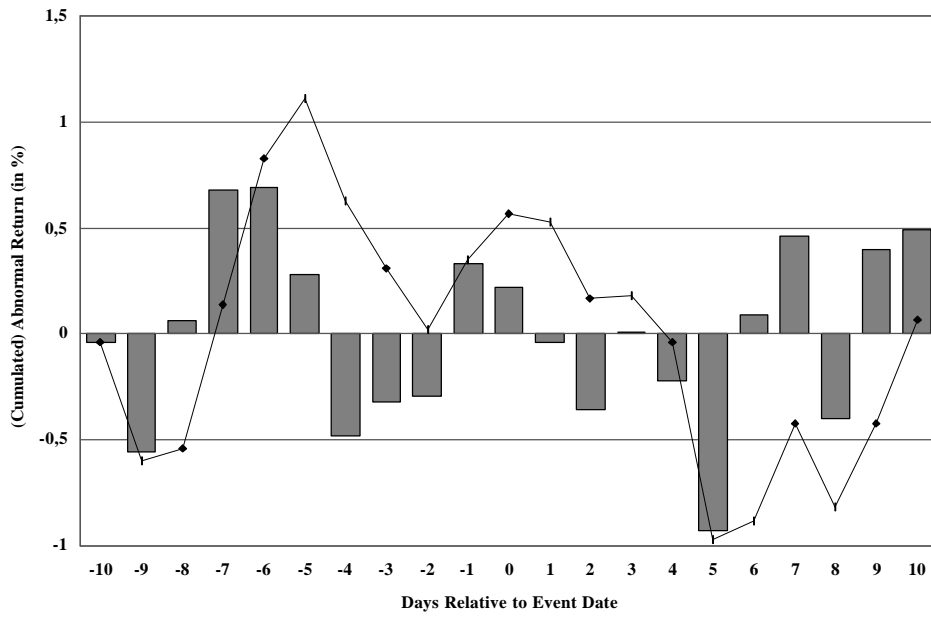


Table 3  
The Influence of Structural Characteristics of the Court Decision on the Abnormal Return

Variable	B	SE B	T
UNWIN	-0.171	.486	-0.352 +
NOWIN	0.441	.731	0.604 +
EXTENS	0.963	.599	1.609 +
PARTLY	0.031	.659	0.047 +
FIRSTIN	0.704	.806	0.873 +
APPELC	1.340	.743	1.884 *
FEDCIV	0.350	.855	0.409 +
SINGLE	0.335	.538	0.623 +
CONST	-1.145	.928	-1.234 +
Adj R2 * 100	10,7 %		
F-Value	1.39 +		
N of Cases	28		

\* significantly different at  $p < .10$

+ not significantly different at  $p < .10$

Looking at Tables 3 and 4, it appears that in no case the independent variables had a statistically significant impact on the capital market's reactions<sup>4</sup>. If the employees or unions win the trial instead of the firm (UNWIN), the abnormal as well as the cumulated abnormal return is negative, though not significantly different from zero. A court decision that balances the parties conflicting positions (NOWIN) leads to a positive, but also insignificant (cumulated) abnormal return. The same is true with regard to the basic character of the decision: Although an extension of co-determination (EXTENS) has a positive influence on the abnormal and a negative one on the cumulated abnormal return, both coefficients are not significantly different from zero; this general finding also appears in cases where both parties have to give up their initial positions to roughly the same extent (PARTLY). Moreover, apart from one notable exception (APPELC in Table 3), neither the institutional importance of the court involved nor the differing impact/relevance of the respective decisions proved to have any influence on the capital market performance of the firms affected by judicial decisions concerning the application of the Co-determination Act<sup>5</sup>.

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<sup>4</sup> Since the number of cases is rather low ( $n=28$ ) a single outlier may have a strong influence on the results of the estimates presented above. Therefore we recoded our dependent variables as dummy-variables (negative vs. positive (cumulated) abnormal return) and estimated logistic regressions with the same explanatory variables as above. This left our findings virtually unchanged. For the sake of brevity we do not report the results of these estimates, but they can be obtained from the authors on request.

<sup>5</sup> Due to the rather small sample size we dropped firm characteristics (such as size, sector affiliation, value added per employee, capital stock, etc.) as additional predictors of the (cumulated) abnormal rate of return. Including these variables only leads to a reduction in the degrees of freedom without affecting the coefficients presented in Table 3 and Table 4.

Table 4  
The Influence of Structural Characteristics of the Court Decision on the Cumulated Abnormal Return

Variable	B	SE B	T
UNWIN	-4.024	2.431	-1.656 +
NOWIN	2.099	3.656	0.574 +
EXTENS	-1.333	2.997	-0.445 +
PARTLY	-2.111	3.300	-0.640 +
FIRSTIN	3.257	4.034	0.807 +
APPELC	0.390	3.717	1.450 +
FEDCIV	6.134	4.279	1.434 +
SINGLE	-4.455	2.692	-1.655 +
CONST	-0.615	4.644	-0.133 +
Adj R2 * 100	0,4 %		
F-Value	0,99 +		
N of Cases	28		

+ not significantly different from zero at  $p < .10$

Even if we "inflate" the degrees of freedom by pooling the data for the 28 enterprises over a period of 21 days (ten days prior to the event plus the event day plus a period of ten days following the event) in order to reduce the standard errors of our coefficients, the empirical analysis does not produce statistically significant results (cf. Tables 5 and 6): As the findings from an analysis of variance show, none of the explanatory variables is of any meaningful importance, i.e. all of the variables are insignificant (Table 5) and the explanatory power of the estimated model including all the relevant parameters is surprisingly low (0,7%; cf. Table 6)<sup>6</sup>. Although the findings are not significant - and should therefore from a statistician's point of view not be interpreted - it is worth noting that the influence of an extension of co-determination as well as the influence of a company win are both counter-intuitive: Other things equal, an extension of co-determination leads to an increase of the cumulated abnormal return while a company win leads to a decrease. At the same time, a company loss leads c.p. to an (insignificant) increase, a restriction of co-determination rights to a decrease of the cumulated abnormal return.

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<sup>6</sup> These findings are absolutely unaffected by the number of days in the event window: Neither an extension (to twenty days before and after the event, nor a restriction to five days prior and following the event) had any discernible effect on the development of the stock prize.

Table 5  
 Analysis of Variance of the Structural Characteristics of the Courts' Decision on the Cumulated Abnormal Return

Source of Variation	Sum of Squares	DF	Mean Square	F
Main Effects	4.937	9	0.549	0.463+
OUTCOME	2.489	2	1.245	1.051+
DECISION	2.111	2	1.056	0.891+
TIME	1.285	2	0.643	0.543+
COURT	2.475	3	0.825	0.696+
Explained	4.937	9	0.549	0.463+
Residual	659.860	578	1.185	
Total	664.797	587	1.175	

+ not significantly different from zero at  $p < .10$

Table 6  
 Multiple Classification Analysis of the Structural Characteristics of the Courts' Decision on the Cumulated Abnormal Return

Variable + Category	N	Unadjusted Dev'n Eta	Adjusted for Independents Dev'n Beta
Grand Mean .01			
Outcome			
Extension	294	.01	.09
Partly/partly	84	.06	.16
Restriction	210	-.04	-.18
		.03	.13
Decision			
Company Loss	210	-.02	.06
Both win/loose	168	.04	.13
Company Win	210	-.01	-.15
		.02	.11
Time			
Before Event	280	-.04	-.04
Event Day	28	.16	.16
After Event	280	.02	.02
		.04	.04
Type of Court			
First Instance	189	.02	.12
Appellate Court	210	-.02	-.01
Fed. Civ. Court	63	.01	.05
Fed. Con. Court	126	.00	-.22
		.02	.11
Multiple R Squared			.007
Multiple R			.086

One can offer various explanations for these findings: First, we did not look at the announcement dates on which information about legal disputes or lawsuits was disseminated through the press. The stock market may already have reacted on those dates rather than on the date of judgment. That would mean that the stock market is better at forecasting and anticipating the outcome of the judicial decision than the losing party. However, we did not obtain the necessary data on this point. A second explanation is that the capital market did not even obtain the information on the outcome of the judicial decisions. But this is not the case as all judgments in our list were published in the legal press and in most, if not all cases, in the general press. A further argument is as follows: The stock market does not react because it considers the judicial decisions on co-determination issues as being of minor importance. That could be either because co-determination is thought to influence the performance of the firms concerned neither negatively nor positively. Or, if co-determination in general is considered to have an impact on performance, judicial decisions at least will have no negative or positive effects as they will not restrict or extend co-determination significantly beyond the range already demarcated by the statute itself.

#### **4.2.2. Stock Market Reactions to Changes in the Legal Environment**

If the latter interpretation were correct, we should observe significant capital market reactions in periods during which the legal framework was enacted and/or has been subject to a legal examination. Thus the following section uses sectoral stock market data to analyze the influence of the enactment of the Co-determination Act (July 1st, 1976) and the final ruling of the Federal Constitutional Court (March 1st, 1979) in which it considered the Act to be constitutional. Even at the risk of increasing the noise in the data, we increase the number of days in the event window to a considerable extent, because otherwise we would be unable to detect long- or medium-term changes in investment behavior. It is very likely however, that such changes (if at all) occurred long before the enactment of the law because potential investors anticipate possibly detrimental consequences of co-determination and thus redirect their investment behavior.

On the one hand, the selection of sectors to be analyzed can be justified with the respective employers associations' opposition to the Act: the appeal lodged with the Federal Constitutional Court against the main provisions of the Co-determination Act (on June 29th, 1977) was supported by ten single firms (of which only six are traded at the stock market<sup>7</sup>) and 29 employers' associations from four sectors (banks and insurance companies,

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<sup>7</sup> Three of these ten firms are not joint stock companies and one of them has - although quoted at the stock exchange - never been publicly traded.

chemical industry, engineering industry, steel production and manufacturing) of which three were chosen for the empirical analysis. It seems reasonable to assume that firms from these sectors were more in opposition to the new legislation, because the percentage of workers covered by the Co-determination Act varies substantially between manufacturing industry, which is characterized by predominantly large plants, and the service sector, where, apart from banks and insurance companies, small- and medium-sized firms dominate. On the other hand, we selected three sectors that were much less affected by the new legislation as reference industries (construction, retail trade, and food, beverages and leisure services) to which potential investors might have turned after the enactment of the new legislation.

For the specific purposes of this first empirical test, the advantages of an aggregated, i.e. sectoral (cumulated) abnormal rate of return presumably outweigh the disadvantages: The sectoral indices are calculated using the stock market performance of 20-50 publicly traded firms from each sector. This is problematic insofar as not all publicly traded firms are subject to co-determination and not all co-determined firms are publicly traded. Particularly in the banking and insurance sector, but also in the chemical industry, the percentage of employees working in co-determined and publicly traded firms is relatively high (70-80%), whereas in the engineering industry it is about 50%<sup>8</sup>. In the three "reference industries" the percentage of workers employed by firms subject to co-determination is less than 25%. It seems reasonable to assume that in our specific context the aggregated indices are likely to measure the "pure" effect of co-determination, because data on individual firms is - due to enterprise specific factors - much "noisier". In other words: Sectoral performance measures are probably better suited for longitudinal analyses such as the following one because firm specific factors "disappear".

Turning to the empirical findings, it appears from table 7 that with only one exception neither the enactment of the Co-determination Act, nor the fact that it was later on declared constitutional by the Federal Constitutional Court resulted in a significant change in the average abnormal rates of return in the six sectors under consideration.

- In the chemical industry the average abnormal return slightly decreased after the introduction of the Co-determination Act on July 1st, 1976.
- In the banking and insurance sector as well as in the engineering industry the introduction of the Act was accompanied by a small increase in the average abnormal rate of return.
- In two of the three reference industries (construction and food and leisure) a positive average abnormal return turned into a negative one and in the third one (retail trade), a

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<sup>8</sup> Own calculations based on unpublished data provided by the Federal Labor Office and on data from Müller-Jentsch (1989: 194-195).

positive average abnormal return became negative after the introduction of the Co-determination Act.

Table 7  
The Relative Stock Market Performance of Selected Sectors<sup>#</sup>

Period two and a half years before and ten days after the Enactment of the Co-determination Act (July 1st, 1976)				
	Mean	Std Dev	Mean	Std Dev
Heavily Affected Sectors				
Chemical Industry	0,022	(0,454)	-0,074	(0,258) +
Banks and Insurances	-0,008	(0,313)	0,054	(0,249) +
Engineering Industry	0,015	(0,507)	0,087	(0,435) +
Unaffected Sectors				
Construction Industry	-0,079	(0,699)	0,079	(0,548) +
Retail Trade	0,010	(0,681)	-0,290	(0,620) +
Food and Leisure	-0,050	(0,579)	0,111	(0,547) +
Period two and a half years before and ten days after the Federal Constitutional Court's Final Decision (March 1st, 1979)				
Heavily Affected Sectors				
Chemical Industry	-0,022	(0,338)	0,187	(0,216) *
Banks and Insurances	0,006	(0,234)	-0,031	(0,184) +
Engineering Industry	0,018	(0,274)	-0,094	(0,138) +
Unaffected Sectors				
Construction Industry	0,033	(0,512)	-0,198	(0,435) +
Retail Trade	-0,038	(0,595)	0,063	(0,735) +
Food and Leisure	-0,014	(0,365)	-0,044	(0,183) +

# Average abnormal return prior to and after the enactment of the law and the decision published on March 1st, 1979.

+ Means not statistically different at  $p < .10$

\* significant at  $p < .10$

- The final decision of the Federal Constitutional Court on March 1st, 1979 caused the average abnormal rates of return to decrease in banking and insurance as well as in engineering.
- In the chemical industry the latter event caused the abnormal rate of return to rise significantly.
- In the industries selected for the purposes of a comparative institutional analysis, the impact of the Federal Constitutional Court's final decision was equally weak: In one case a negative (positive) average abnormal return turned into a positive (negative) one and in the remaining case a negative return remained negative.

In summary, these findings are surprising insofar as the two events went hand in hand with rather distinct developments in the industries under consideration: Among the three sectors most heavily affected as well as among those more or less unaffected, there is one regarding which the first event induced an increase in the average abnormal return and the latter a decline. In each groups' remaining two sectors the first event induced a decline and the second an increase<sup>9</sup>.

However, with regard to the enactment of the law, even an event window of two and a half years might be too short, because the political discussion about co-determination can be traced back to the late 1960s. It is thus possible that shareholders who invested in the sectors and firms later on most heavily affected by the new legislation experienced a reduction in their abnormal returns long before the law came into force. Unfortunately, it is not possible to test this hypothesis, because the stock market data is only available from January 2nd, 1974 onwards and because the second event occurred less than three years after the first<sup>10</sup>.

Since the means and standard deviations are likely to hide possible ups and downs in the abnormal rates of return immediately before and after the critical events, we plot the respective values for each of the three sectors most heavily affected by the new Act (see Figures 6-11).

A closer look at the variation of the (cumulated) abnormal rates of return in the three sectors most heavily affected reveals the following developments:

- In 1976, the development of the abnormal returns followed a rather erratic pattern in the first five days following the enactment of the Co-determination Act: Although none of the changes proved to be statistically significant, the abnormal returns were mostly positive.

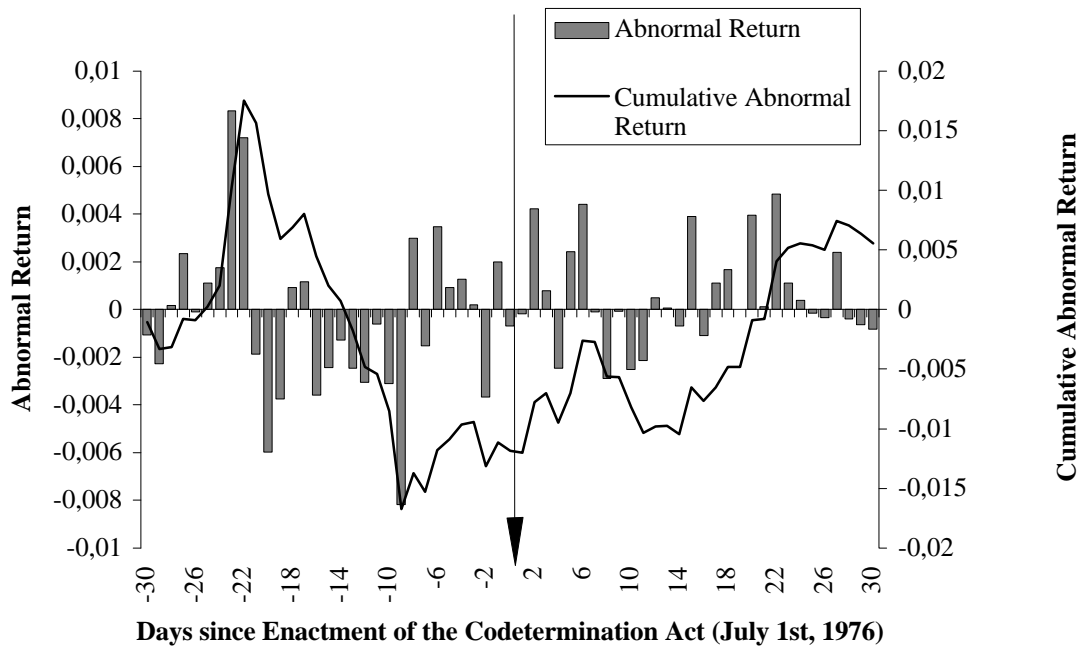
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<sup>9</sup> We conducted a similar analysis with the date of the oral presentation at the Federal Constitutional Court as the event date. Here too, the capital market's reactions were statistically insignificant.

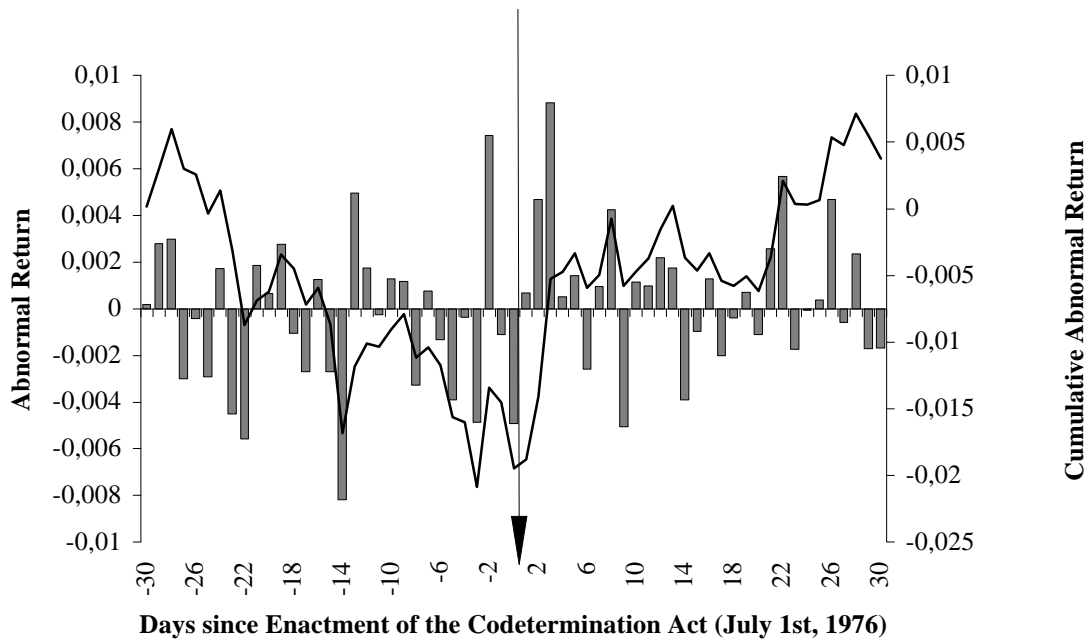
<sup>10</sup> Since the performance of a specific stock can only be considered "normal" or "abnormal" relative to a particular benchmark, it is necessary to test the stability of our findings by using alternative reference indices. Although most reasonable indices will be very highly correlated with each other, this does not mean that the exact composition is unimportant. Göppl and Schütz (1994: 26) for example show that the correlation of the overall DAFOX with the DAFOX for blue chips is +.995 for the period January 1974-December 1991. The respective coefficient for the overall DAFOX and the DAFOX for small caps is +.892 only and for the DAFOX for blue chips and the DAFOX for small caps it is +.846. However, when we replicated our analysis using the DAFOX for small caps instead of the overall DAFOX, the results did not change dramatically: Although in most cases the post-event performance was slightly lower than the pre-event performance, the difference proved to be insignificant in every single case. The full results of the tests are available from the authors on request.



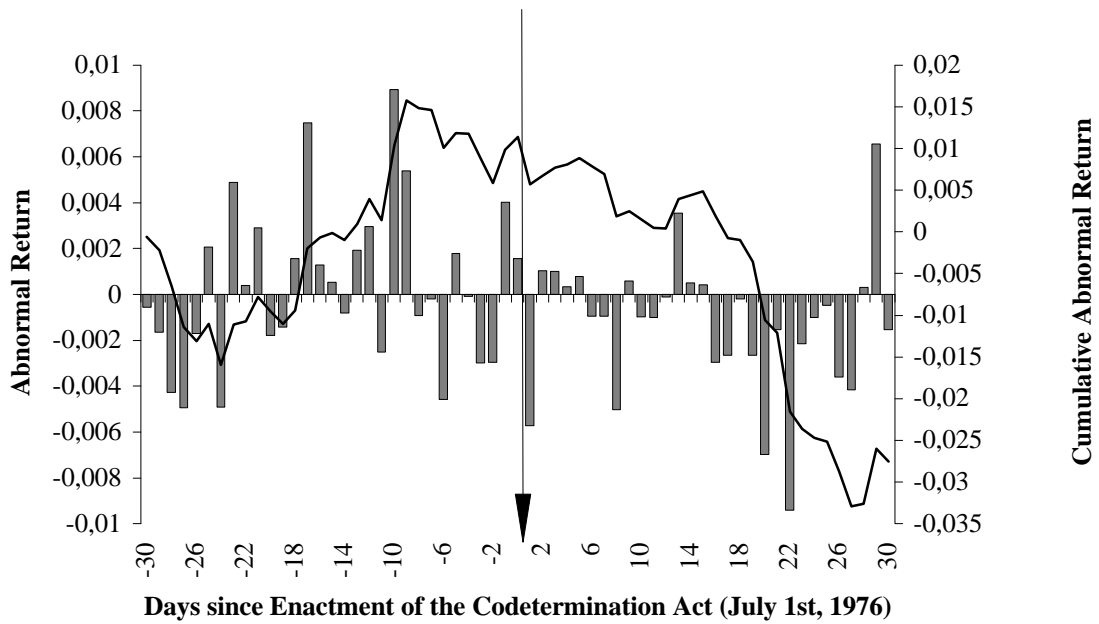
**Figure 6: Capital Market Performance of the Banking and Insurance Sector, 1976**



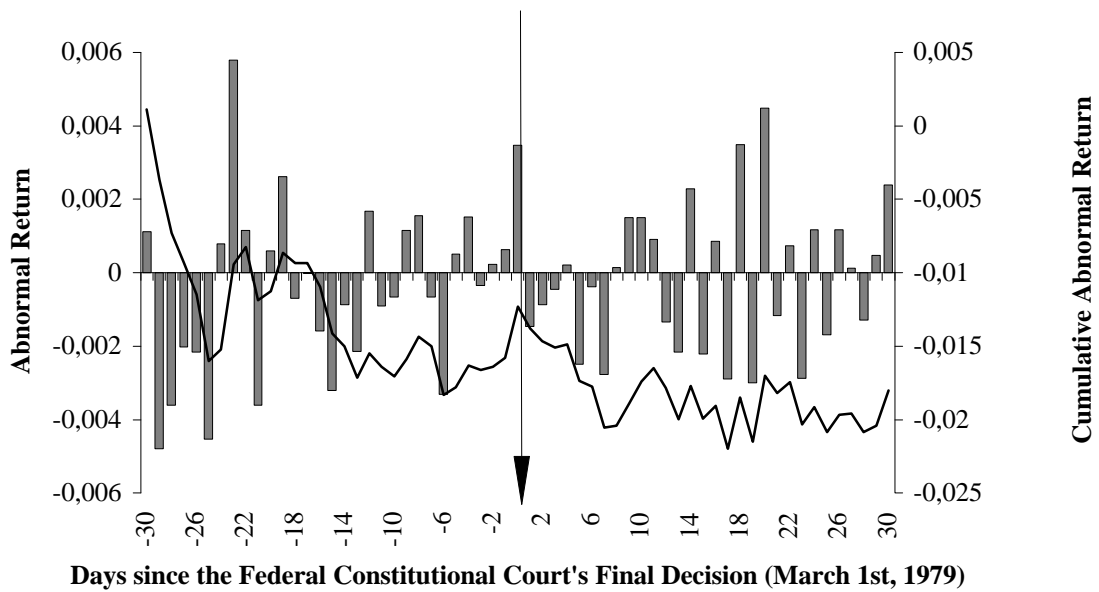
**Figure 7: Capital Market Performance of the Engineering Industry, 1976**



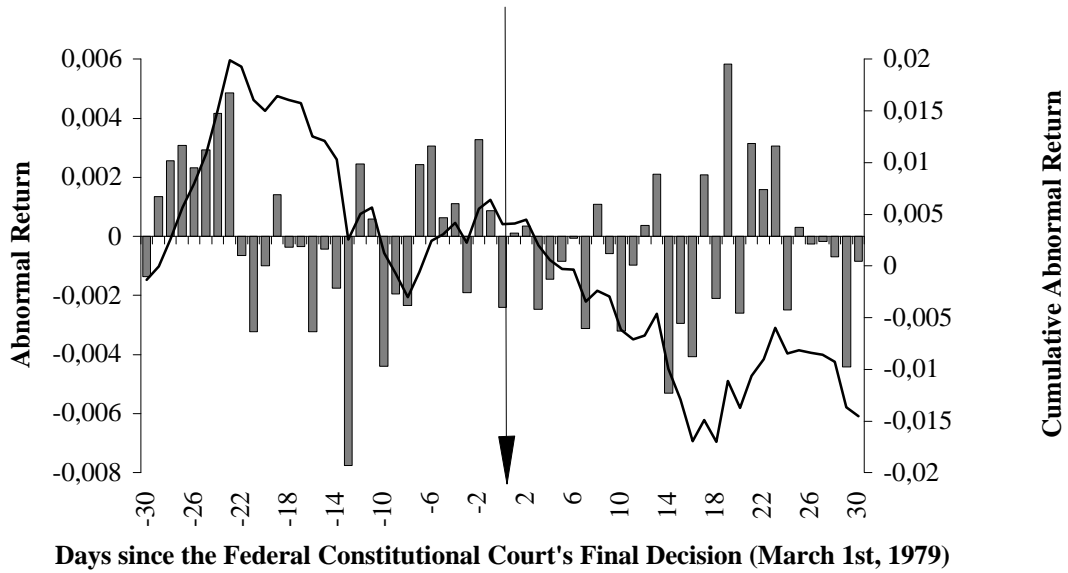
**Figure 8: Capital Market Performance of the Chemical Industry, 1976**



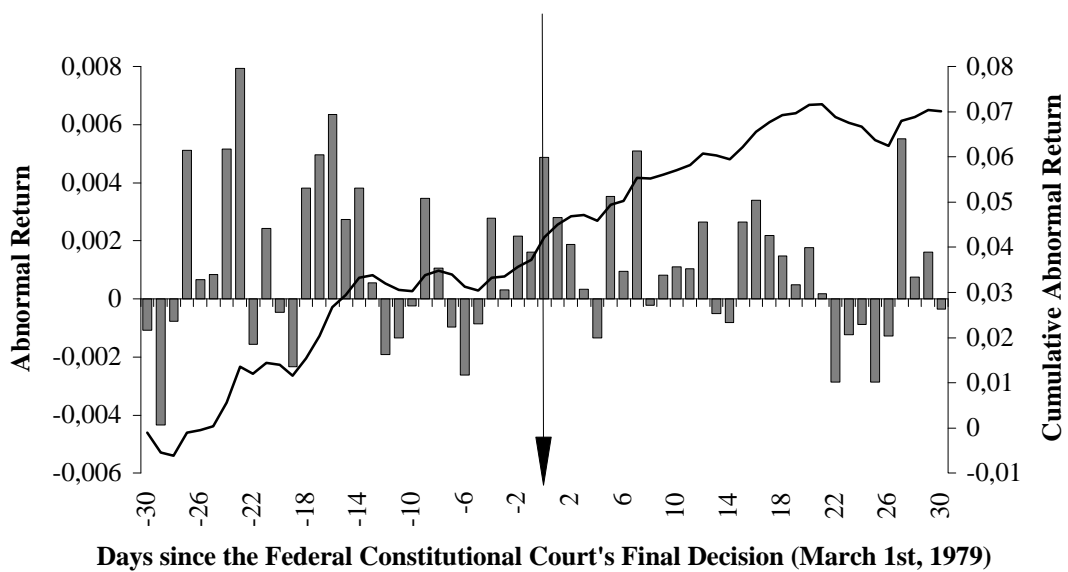
**Figure 9: Capital Market Performance of the Banking and Insurance Sector, 1979**



**Figure 10: Capital Market Performance of the Engineering Industry, 1979**



**Figure 11: Capital Market Performance of the Chemical Industry, 1979**



- Looking at the development of the cumulative abnormal returns it appears that once again no common pattern exists: In the banking and insurance sector and in the engineering industry the cumulative abnormal returns were slightly higher at the end of the period under investigation than they were in the beginning. In the chemical industry they were slightly lower. However, in all three sectors the margins in which the cumulative abnormal returns varied were rather small.
- In 1979, a similar picture emerges with respect to the development of the abnormal returns in the first few days after the Federal Constitutional Court's decision: In none of the industries under consideration did the sector specific rate of return differ in a statistically meaningful way from the market return. In the chemical industry the majority of the abnormal rates of return within the "critical" five-day-period following the event was slightly positive, in the remaining two sectors (banking and insurance, engineering) they were negative.
- The cumulative abnormal rate of return showed a constant upward trend in the chemical industry whereas in the remaining two sectors it showed a clear (engineering industry) and a less clear downward trend (banking and insurances). In neither case, however, did the cumulative abnormal rate of return exceed a margin of +2% or -1% respectively.

Further tests reveal that neither the enactment of the Co-determination Act nor its general acceptance by the Federal Constitutional Court caused any significant changes in the beta-factors nor in the volatility measures<sup>11</sup>.

## 5. Summary and Implications

Tracking a sample of judicial decisions concerning the application of the German Co-determination Act of 1976 we did not find that stockholders experienced financial losses due to judicial decisions extending co-determination rights of workers. Moreover, neither the enactment of the Co-determination Act nor its legal examination by the Federal Constitutional Court in 1979 led - according to our data - to significant reductions in the (cumulated) abnormal returns in those sectors of the German economy, where most of the firms must obey the respective legislation.

One can offer various explanations for our findings. As to the judicial decisions, we did not look at the announcement dates on which information about legal disputes or lawsuits was disseminated through the press. The stock market may have reacted on these dates rather

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<sup>11</sup> With regard to the enactment of the law in 1976, the beta factors are 1.84 (before the event) and 2.20 (afterwards) in the chemical industry, 0.81 and 0.41 in the engineering industry and 1.89 and 0.42 in the banking and insurance sector. None of these differences is statistically significant. At the same time, the volatility measures are close to zero in every case and do not differ significantly either.

than on the dates of the judgments. That would mean that the stock market is - on average - better at forecasting and anticipating the outcome of the judicial decision than the losing party. Further research should attempt to obtain these data and test this hypothesis.

A second explanation is that the stock market did not react because it considers the judicial decisions on co-determination issues as being of minor importance. That could be because judicial decisions are not thought to have negative or positive effects as they will not restrict or extend co-determination significantly beyond the range already demarcated by the statute itself. This hypothesis would have gained support if there had been significant capital market reactions when the legal framework was enacted and/or when its constitutionality was questioned. We did not however observe a significant change in the abnormal rates of return of the sectors most heavily affected by the introduction of co-determination in 1976 as compared with industries that are either not at all or only to a small extent affected by the new legislation.

At this point one could end with the hypothesis that co-determination is thought to influence the performance of the firms concerned neither negatively nor positively. Further research should however, test yet another hypothesis: It may be that some investors (e.g., employees of the respective firms who are shareholders at the same time) are favourable towards co-determination whereas others do not. In that case trading activities between these two groups of shareholders may occur when co-determination is extended or restricted by court decisions and thus might negative and positive effects be levelled out. One could test for an increase in the number of securities traded while leaving the price more or less unaffected. This finding could prove to be a serious challenge of the assumption that all investors dislike co-determination. So far, none of the above cited conflicting theoretical positions on the impact of co-determination on firm value receives much empirical support.

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## Appendix

### Technical Appendix

#### 1. Specification of the Models Underlying Tables 3 and 4

$$\text{CAR or AR} = \beta_0 + \beta_1 \text{ UNWIN} + \beta_2 \text{ NOWIN} + \beta_3 \text{ EXTENS} + \beta_4 \text{ PARTLY} \\ + \beta_5 \text{ FIRSTIN} + \beta_6 \text{ APPELC} + \beta_7 \text{ FEDCIV} + \beta_8 \text{ SINGLE} + \varepsilon$$

where: CAR/AR: (cumulated) abnormal rate of return

UNWIN: union wins (no=0, yes=1)

NOWIN: no party wins, both have to make concessions (no=0, yes=1)  
reference category: company wins

EXTENS: court extends co-determination rights (no=0, yes=1)

PARTLY: co-determination rights neither extended nor restricted (no=0, yes=1)  
reference category: court restricts co-determination rights

FIRSTIN: case decided by court of first instance (no=0, yes=1)

APPELC: case decided by Appellate Court (no=0, yes=1)

FEDCIV: case decided by Federal Civil Court (no=0, yes=1)  
reference category: Federal Constitutional Court

SINGLE: decision affecting only a single enterprise (no=0, yes=1)  
reference category: decision of economy-wide importance

$\varepsilon$ : error term

#### 2. Description and Coding of the Independent Variables used in the Analysis of Variance (Tables 5 and 6)

OUTCOME: extension of co-determination (-1)  
partly/partly (0)  
restriction of codetermination (1)

DECISION: company loss (-1)  
both parties win/loose (0)  
company win (1)

TIME: days before the event (-1)  
event day (0)  
days following the event (1)

COURT: court of first instance (1)  
Appellate Court (2)  
Federal Civil Court (3)  
Federal Constitutional Court (4)

Table A1  
Productivity Effects of Trade Unions

Author(s)	Sample/Data	Productivity Measure(s)	Indicator(s) of WR*	Effect of WR*
Addison et al. (1989)	30 two-digit manufacturing industries organized by 12 different unions 1983	Value Added per Employee	Union Density	Negative, but insignificant
Kraft (1992)	20 two-digit manufacturing industries organized by 6 different unions 1970-1987	Annual Increase of Total Factor Productivity	Union Density Three Dummy-Variables Indicating Predominance of Metal Workers', Chemical Workers', and Wood Workers' Union	Mixed results: significantly positive in the most important sectors (metal and chemical industries), significantly negative in other sectors
Lorenz/Wagner (1991)	29 two-digit manufacturing industries 1985	Value Added per Employee	Union Density	Negative, but insignificant
Schnabel (1989)	Economy-wide time-series analysis 1955-1984	Gross Domestic Product per Employee	Union Density	Negative, but insignificant
Schnabel/Wagner (1992)	29 two-digit manufacturing industries 1982-1984	Percentage of Revenues Spent on R & D Percentage of Employees Working in R & D	Union Density	Positive, but insignificant Negative, but insignificant
Mainusch (1992)	29 two-digit manufacturing industries 1983	Profit Rate	Union Density	Significantly negative

\* WR: Workers' Representation

Table A2  
Productivity Effects of Works Councils

Author(s)	Sample/Data	Productivity Measure(s)	Indicator(s) of WR*	Effect of WR*
Addison et al. (1993)	43-54 establishments in manufacturing industry in Lower Saxony and Baden-Württemberg 1990/91**	Net Profit Before Taxes/ Fixed Capital Log(Value Added) Capital Investment/ Capital Stock Net Capital Investment/ Capital Stock Log(Wage per Employee) Average Percentage Wage Drift	Presence of Works Council	Negative, but insignificant  Positive, but insignificant Significantly negative  Positive, but insignificant  Significantly positive  Significantly negative
Addison/Wagner (1995)	74 medium and large firms in Northrhine-Westphalia 1993	Profits as compared with profits of competitors in the same industry (1 = much worse ... 5 = much better) Introduction of at least one completely new product in the previous year (1=yes, 0=no)	Presence of Works Council Composite Voice Index	WC: Negative, but insignificant VI: Negative, but insignificant  WC: Positive, but insignificant VI: Positive, but insignificant
Addison/Schnabel/ Wagner (1996)	926/973 firms in manufacturing industry in Lower Saxony 1994**	Profitability (1=high, 0=low), derived from a categorical measure (firm's profit situation (5=very good ... 1=very bad); first two grouped as "high", remaining as "low") Introduction of a new product (1=yes, 0=no) Introduction of a new production process (1=yes, 0=no) in preceeding year	Presence of Works Council (Dummy Variable and Instrumented Variable)	DV: Significantly negative IV: Significantly negative  DV: Positive, but insignificant IV: Significantly positive DV: Negative, but insignificant IV: Positive, but insignificant

(continued)

FitzRoy/Kraft (1985a)	61/62 medium and large firms in the metal-working industry 1977/79	Profitability (Cashflow/Capital Stock) Average Hourly Wage  Salaries per Employee and Year	Presence of Works Council Union Density	WC: Significantly negative U: Significantly positive WC: Negative, but insignificant U: Significantly positive WC: Significantly negative U: Significantly positive
FitzRoy/Kraft (1985b)	cf. FitzRoy/Kraft (1985a)	Value Added per Employee	Presence of Works Council Union Density Index of Participation Index Squared	WC: Significantly negative U: Positive, but insignificant IP: Significantly positive SIP: Significantly negative
FitzRoy/Kraft (1987a)	cf. FitzRoy/Kraft (1985a)	Total Factor Productivity	Presence of Works Council Union Density	WC: Significantly negative U: Significantly positive
FitzRoy/Kraft (1987b)	cf. FitzRoy/Kraft (1985a)	Value Added per Employee	Presence of Works Council Union Density	WC: Significantly negative U: Significantly positive
FitzRoy/Kraft (1990)	57 medium and large firms in the metal-working industry 1979 only	Innovative Activities (Proportion of Sales Consisting of New Products Introduced Over a Five-Year Interval)	Composite Works Council- Union Density Index	Significantly negative
Frick (1996a, 1996b), Frick/Sadowski (1995)	1616 private sector firms in 1988	Number of dismissals per 100 employees Number of voluntary quits per 100 employees Number of hirings per 100 employees during the two-year period May 1985-April 1987	Presence of Works Council Sectoral Union Density	WC: Significantly negative UD: Positive, but insignificant WC: Significantly negative UD: Positive, but insignificant WC: Negative, but insignificant UD: Significantly positive
Kraft (1986)	cf. FitzRoy/Kraft (1985a)	Turnover (Dummy-Variable High vs. Low According to Management)	Presence of Works Council Union Density Index of Individual Voice	WC: Positive, but insignificant U: Negative, but insignificant IIV: Significantly negative

\* WR: Workers' Representation

\*\* Due to missing values, the number of cases varies depending on the specification.

<b>Nr.</b>	<b>Content</b>	<b>Decision Date</b>	<b>Case Number</b>	<b>Court</b>	<b>Statute</b>	<b>Publication Date</b>	<b>Name and Type of Enterprise</b>	<b>Further Decisions</b>	<b>Firm Specific (E) / Industry Wide (I)</b>	<b>restricting (r) / extending (e) co-determination</b>
1	MitbestG Bergbau und Eisen - in den Montan-Holdinggesellschaften	21.12.1953	3 O 164/53	LG Düsseldorf	Montan-MitbestG, BetrVG 1952	BB 1954, 60 (20.01.1954)	Mannesmann AG		iron/coal	r
2	Bestimmung Art. 3 Abs. 2 d Ges. v. 27.4.1967 (BGBl. I S. 505) verfassungswidrig	10.08.1967	8 Akt E 1/67	LG Dortmund	Mitbest.-Erg. Gesetz	AG 1967, 295 (Okt. 1967)	Rheinische Stahlwerke AG	Nr. 4	iron/coal	r
3	Mittelbare Wahl von Arbeitnehmervertretern in den Aufsichtsrat, Wahlmännerverfahren, Wahlordnung	06.02.1968	1 ABR 5/67	BAG	BetrVG 1952	DB 1968, 313 (16.2.1968) = BB 1968, 750 (30.6.1968)	Veba AG		I	r
4	Art. 3 Abs. 2 des Gesetzes vom 27.4. 1967 verfassungsmäßig	07.05.1969	2 BvL 15/67	BVerfG	Montan-MitbestG	WM 1969, 651 (24.05.1969)	Rheinische Stahlwerke AG	Nr. 2	iron/coal	e
5	Arbeitnehmervertreter im Aufsichtsrat, Luitpold-Hütte-AG	23.06.1971	4 AR 8/69	LG Nürnberg-Fürth	Montan-MitbestG	DB 1971, 1466 (6.8.1971)	Luitpold-Hütte AG, Reichswerke Salzgitter	Nr. 6	iron/coal	e
6	Befristete Fortgeltung i. d. bisher dem MitbestG unterliegenden Unternehmen	03.02.1972	2 Z 100/71	Bay ObLG	Montan-MitbestG	AG 1972, 83 (März 1972)	Luitpold-Hütte-AG	Nr. 5	I	e
7	Mitbestimmung und Beirat einer AG	13.07.1976	3 O 121/76	LG Köln	BetrVG 1952	AG 1976, 329 (Dez. 1976)	Felten und Guillaume-AG		E	r

<b>8</b>	Verfassungsbeschwerde gegen MitbestG	20.01.1977	1 BvR 441/76	BVerfG	Montan-MitbestG	WM 1977, 254 (26.02.1977) = DB 1977, 359 (18.2.1977)	alle montan-mitbestimmten Unternehmen		I	-
<b>9</b>	Übergabe von für die Wahl der Arbeitnehmervertreter in den AR benötigten personellen Daten	24.06.1977	3 Ta BV 39/77	LAG Hamm	MitbestG	DB 1977, 1563 (19.8.1977)	Veba Chemie AG		E	r
<b>10</b>	Verfassungsmäßigkeit des MitbestG	08.03.1978	19 W 16/77	OLG Düsseldorf	MitbestG	WM 1978, 381 (15.04.1978) = DB 1978, 697 (7.4.1978) = BB 1978, 466 (10.4.1978)	Girmes AG		I	e
<b>11</b>	Verfassungswidrigkeit, Verstoß des § 7 Abs. 1 und 2 MitbestG 1976 gegen Art.9 Abs. 3 GG?	10.04.1978	71 T 60/76	LG Hamburg	MitbestG	DB 1978, 990 (19.5.1978) = WM 1978, 528 (20.5.1978) = BB 1978, 760 (30.5.1978)	Beiersdorf AG	Nr. 12	I	r
<b>12</b>	Verfassungsmäßigkeit des MitbestG	01.03.1979	1 BvR 532, 533/77, 1 BvR 419/78 und 1 BvL 21/78	BVerfG	MitbestG	WM 1979, 389 (7.4.1979) = DB 1978, 593 (23.3.1979)	Beiersdorf AG	Nr. 11	I	e
<b>13</b>	Aufsichtsrat, Beschlußfähigkeit, abschließende Regelung in § 28 MitbestG verneint	23.07.1979	12 O 16/79	LG Mannheim	MitbestG	DB 1979, 1899 (28.9.1979)	Bilfinger & Berger Bau AG	Nr. 18, 25	I	r
<b>14</b>	Zusammensetzung des Aufsichtsrats	06.12.1979	2 O 2362/1977c	LG Bremen	MitbestG	DB 1980, 349 (15.2.1980)	Kühne & Nagel AG	Nr. 17	I	e

<b>15</b>	AG Aufsichtsratsausschüsse; unzulässige Beschränkung der Wahlfreiheit durch Satzung und Geschäftsordnung	16.01.1980	6 O 1171 und 1172/79	LG München	MitbestG	WM 1980, 689 (14.6.1980) = DB 1980, 678 (4.4.1980)	Siemens AG	Nr. 21, 24	l	e
<b>16</b>	Beschlußfähigkeit des Aufsichtsrates	17.03.1980	64 T 22/79	LG Hamburg	MitbestG	WM 1980, 688 (14.6.1980) = AG 1981, 106 = BB 1980, 959 (10.7.1980)	Hamburg- Mannheimer Vers. AG	Nr. 32	l	e
<b>17</b>	Zusammensetzung des Aufsichtsrats	30.04.1980	1 W 3/80(c)	OLG Bremen	MitbestG	DB 1980, 1332 (4./11.7.1980)	Kühne & Nagel AG	Nr. 14	l	r
<b>18</b>	Beschlußfähigkeit des Aufsichtsrats; MitbestG; Satzungsänderung	20.06.1980	15 U 171/79	OLG Karlsruhe	MitbestG	WM 1980, 1182 (11.10.1980) = DB 1981, 362 (13.2.1981) = BB 1980, 1232 (30.8.1980)	Bilfinger und Berger Bau AG	Nr. 13, 25	l	e
<b>19</b>	Besetzung von Ausschüssen; MitbestG; Aufsichtsratsvorsitzender	04.11.1980	1 O 216/80	LG Hamburg	MitbestG	WM 1980, 1399 (6.12.1980) = DB 1981, 359 (13.2.1981) = BB 1980, 1711 (30.11.1981)	Beiersdorf AG	Nr. 26, 29	l	r
<b>20</b>	Stichentscheid eines Aus- schußvorsitzenden	25.03.1981	2 U 91/80	OLG Köln	MitbestG	WM 1981, 413 (18.04.1981) = DB 1981, 929 (1.5.1981) = BB 1981, 631 (20.4.1981)	Dynamit Nobel AG	Nr. 23	l	r

<b>21</b>	Aufsichtsrat; Wahl zweier Stellvertreter; Ausschlußbesetzung; Zweitstimmrecht des Aufsichtsratsvorsitzenden; Personalausschuß	29.04.1981	20 U 1464/80	OLG München	MitbestG	WM 1981, 530 (16.05.1981) = DB 1981, 1077 (22.5.1981) = BB 1981, 809 (20.5.1981)	Siemens AG	Nr. 24		r
<b>22</b>	Aufsichtsratswahl der Arbeitnehmervertreter für Konzernspitze	24.11.1981	1 ABR 80/79	BAG	MitbestG	WM 1982, 645 (5.6.1982) = DB 1982, 755 (9.4. 1982); Ankündigung in DB 1981, 2543 (11.12.1981)	Heinrich Industrie- und Handels-AG			r
<b>23</b>	Stichentscheid des Vorsitzenden eines Aufsichtsratsausschusses	25.02.1982	II ZR 102/81	BGH	MitbestG	WM 1982, 363 (27.3.1982); Ankündigung in DB 1982, 534 (12.3.1982)	Dynamit Nobel AG	Nr. 20		r
<b>24</b>	Grenzen für Satzungsbestimmungen einer AG; mehrere Stellvertreter des Aufsichtsratsvorsitzenden; Besetzung von Aufsichtsratsausschüssen	25.02.1982	II ZR 123/81	BGH	MitbestG	WM 1982, 359 (27.03.1982) = DB 1982, 742 (9.4.1982); Ankündigung in DB 1982, 534 (12.3.1982)	Siemens AG	Nr. 15, 21		partly r / partly e



<b>25</b>	Satzungsbestimmung über Beslußfähigkeit des Auf- sichtsrats	25.02.1982	II ZR 145/80	BGH	MitbestG	WM 1982, 365 (27.3.1982) = DB 1982, 747 (9.4.1982); Ankündigung in DB 1982, 534 (12.3.1982)	Bilfinger & Berger Bau AG	Nr. 13, 18	I	e
<b>26</b>	Aufsichtsratsausschuß; Be- setzungsregelung in Geschäfts- ordnung; weitere Stellvertreter des AR-Vorsitzenden	23.07.1982	11 U 179/80	OLG Hamburg	MitbestG	WM 1982, 1090 (23.7.1982) = DB 1982, 1765 (27.8.1982) = BB 1982, 1686 (10.10.1982)	Beiersdorf AG	Nr. 19, 29	I	partly r / partly e
<b>27</b>	Zur Frage, ob ein 1960 gegründetes Unternehmen dem Montan- MitbestG 1951 o. dem MitbestG 1976 unterfällt	24.08.1982	19 W 11/80	OLG Düsseldorf	Montan- MitbestG	DB 1982, 1974 (24.9.1982) = ZIP 1982, 1207 (20.10.1982)	Böhler AG	Nr. 28	iron/coal	e
<b>28</b>	Anwendungsbereich der Montan- mitbestimmung	28.02.1983	II ZB 10/82	BGH	Montan - MitbestG	WM 1983, 382 (9.4.1983) = DB 1983, 1087 (20.5.1983) = BB 1983, 856 (20.5.1983)	Böhler AG	Nr. 27	iron/coal	e
<b>29</b>	Besetzung eines Aufsichtsratsaus- schusses	28.02.1983	II ZR 168/82	BGH	MitbestG	WM 1983, 446 (23.04.1983)	Beiersdorf AG	Nr. 19, 26	E	e

<b>30</b>	Konzern im Konzern; Bildung des Aufsichtsrats nach BetrVG o. MitbestG?	09.11.1983	3 W 25/83	OLG Zweibrücken	MitbestG	WM 1983, 1347 (10.12.1983) = DB 1984, 107 (13.1.1984)	Streif AG		E	r
<b>31</b>	Aufsichtsrat, mehrstufiger Konzern	10.11.1983	4 O 3900/83	LG Nürnberg-Fürth	MitbestG	WM 1984, 263 (25.2.1984) = DB 1983, 2675 (16.12.1983)	Energieversorgung Oberfranken AG Bayreuth und Bamberg		I	r
<b>32</b>	Beschlußfähigkeitsregelung für Aufsichtsrat; MitbestG 1976	04.04.1984	2 W 25/80	OLG Hamburg	MitbestG	WM 1984, 1154 (1.9.1984) = DB 1984, 1616 (3.8.1984) = BB 1984, 1763 (10.10.1984)	Hamburg-Mannheimer Versicherungs-AG	Nr. 16	I	r
<b>33</b>	Aufsichtsrat; Besetzung eines Vorstandsausschusses; MitbestG 1976	25.05.1984	11 U 183/83	OLG Hamburg	MitbestG	WM 1984, 965 (21.07.1984) = DB 1984, 1567 (27.7.1984)	Beiersdorf AG		I	partly r / partly e
<b>34</b>	Konzern im Konzern	19.12.1985	2/6 AktE 1 /85	LG Frankfurt a.M.	MitbestG	WM 1986, 885 (19.07.1986)	VDM AG	Nr. 35	E	r
<b>35</b>	MitbestG 1976, Aufsichtsrat, Konzernunternehmen; Konzern im Konzern	10.11.1986	20 W 27/86	OLG Frankfurt/M.	MitbestG	BB 1986, 2288 (10.12.1986) = WM 1987, 237 (21.2.1987)	VDM AG	Nr. 34	E	r
<b>36</b>	Montan-Mitbestimmung, Einführung in Unternehmen, in dem sie bisher nicht angewendet worden ist, verneint	27.07.1988	19 W 10/87	OLG Düsseldorf	Montan-MitbestG	DB 1988, 1943 (23.9.1988)	Böhler AG		I	r

37	Aufsichtsrat, Umstrukturierungsbeschluß, Unwirksamkeit wegen nicht ausreichender Information der Arbeitnehmervertreter	27.06.1989	7 O 214/89	LG Hannover	MitbestG	DB 1989, 1816 (8.9.1989) = AG 1989, 448 (1.12.1989)	Pelikan AG		E	e
38	Montan-Mitbestimmungs-Ergänzungsgesetz, Verfassungswidrigkeit	08.01.1991	19 W 3/90	OLG Düsseldorf	Montan-Mitbest.-ErgänzG	DB 1991, 445 (22.2.1991)	Mannesmann AG		I	e
39	MitbestG, Aufsichtsrat, Vorstandsausschuß, Besetzung mit Arbeitnehmervertretern nicht erforderlich	06.03.1992	11 U 134/91	OLG Hamburg	MitbestG	DB 1992, 774 (10.4.1992)	Hamburg-Mannheimer Versicherungs-AG	Nr. 43	I	r
40	Auslaufen durch Betriebsübergang auf neue Konzernmutter	30.09.1992	18 AktE 1/91	LG Hannover	Montan-MitbestG	WM 1993, 63 (16.01.1993)	Preussag AG	Nr. 41	E	r
41	MitbestG 1976, Preussag AG, Übernahme der Salzgitter-AG	22.03.1993	9 W 130/92	OLG Celle	MitbestG	BB 1993, 957 (20.5.1993)	Preussag AG	Nr. 40	E	r
42	"Aushebelung" der deutschen Mitbestimmung durch ausländische Konzernspitze und deutsche Zwischenholding?	11.05.1993	2 AktE 1/92	LG Stuttgart	MitbestG	DB 1993, 1711 (27.8.1993) = BB 1993, 1541 (10.8.1993)	Charles Vögele Holding AG		E	r
43	Aufsichtsratsausschuß ausschließlich mit Vertretern d. Anteilseigner, Ausschaltung der Mitbestimmung	17.05.1993	II ZR 89/92	BGH	MitbestG	DB 1993, 1609 (13.8.1993) = BB 1993, 1468 (30.7.1993)	Hamburg-Mannheimer Versicherungs-AG	Nr. 39	I	e
44	Mitbestimmung bei Ausschlußbildung im Aufsichtsrat	31.05.1994	HK O 75/93	LG Passau	MitbestG	AG 1994, 428 (1.9.1994)	Vogt electronic AG	Nr. 45	I	e
45	Mitbestimmung bei Ausschlußbildung im Aufsichtsrat	27.02.1995	23 U 4282/94	OLG München	MibestG	WM 1995, 978 (3.6.1995)	Vogt electronic AG	Nr. 44; rechtskräftig	I	partly r / partly e

<b>46</b>	Zusammensetzung des Aufsichtsrats; Zulassung bisheriger Aufsichtsratsmitglieder als Gäste	10.10.1995	19 W 5/95	OLG Düsseldorf	BetrVG 1952	WM 1996, 65 (13.1.1996)	Deutsche Babcock AG	E	e
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