

How German labor courts decide: an econometric case study

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What we do:

We analyze a unique data set - very close to a natural experiment - of

- **221** individual cases
- handled by **33 different lower-level labor courts** across Germany between August 2003 and September 2006
- **originating from the same electronic retailer** after a reorganization of outlets which resulted in almost 2.000 dismissals.

with respect to labor court behavior.

Outline

1. Motivation
2. Literature
3. Data
4. Results
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Motivation

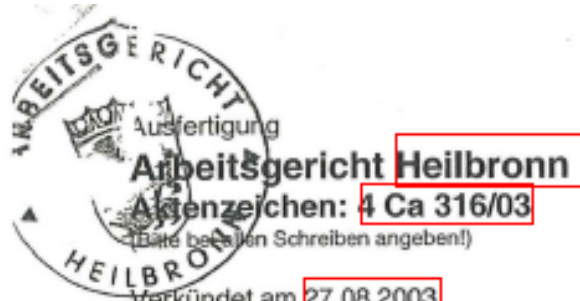
- Estimates for Germany suggest that between 11% and 27% of dismissed workers go to court (see, e.g. Pfarr et al. 2005, Höland et al. 2005, or Jahn and Schabel 2003).
- In many countries labor courts determine actual degree of law (“Arbeitsrecht ist Richterrecht”).

--> What is the actual proliferation of employment protection?

Literature

- **Court rulings as a function of labor market performance:** Franz (1994), Bertola et al. (1999), or Ichino et al. (2003), Frick and Schneider (1999)
- **Labor market performance as a function of court activity:**
 - Rise of temporary work agencies: Autor (2003)
 - Unemployment: Berger and Neugart (2009)
 - Role of uncertainty : Stähler (2008), Huang et al. (2009)
- **Labor market regulation as a function of court behavior:** Hefeker and Neugart (2010)

Data source



Weilmann
Urkundsbeamtin der Geschäftsstelle



Im Namen des Volkes

Urteil

In der Rechtssache

Am [redacted] 5, 74177 Bad Friedrichshall

- Kläg. -

Proz.-Bev.: Rechtssekretäre Klaus Baier u. Sabine Häußler **DGB Rechtsschutz GmbH**
Gartenstraße 64, 74072 Heilbronn



zugestellt mit Karte

Data source

gegen

Firma ProMarkt Handels GmbH
vertr.d.d.GF Matthias Wegert & Michael Wegert
Kolonnenstraße 30 f, 10829 Berlin

- Bekl. -

Proz.-Bev.: **Rechtsanwälte White & Koll.**
Kurfürstendamm 32, 10719 Berlin

hat das Arbeitsgericht Heilbronn - 4. Kammer -
durch die Richt^{erin} am Arbeitsgericht Stapelfeldt,
d. ehrenamtliche Richt^{erin} Möhrcke
und d. ehrenamtlichen Richt^{er} Neff

auf die mündliche Verhandlung vom 27.08.2003

für Recht erkannt:

1. **Die Klage wird abgewiesen.**
2. Die Klägerin trägt die Kosten des Rechtsstreits.
3. **Der Streitwert wird auf € 5.745,00 festgesetzt.**

Data source

316/03

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Tatbestand

Die Parteien streiten über die Wirksamkeit einer ordentlichen betriebsbedingten Kündigung der beklagten Partei vom 19.04.2003.

Die 29 Jahre alte, ledige und keinen Kindern gegenüber unterhaltsverpflichtete Klägerin ist bei der beklagten Partei seit 01.03.1997 als Einzelhandelskauffrau genauer als Fachberaterin im Bereich Telekommunikation/Foto gegen einen Bruttomonatsverdienst von zuletzt 1.915,00 € tätig. Auf das Arbeitsverhältnis findet der Manteltarifvertrag für den Einzelhandel Baden-Württemberg Anwendung.

Die beklagte Partei ist im Bereich Unterhaltungselektronik tätig. Sie unterhält zahlreiche Filialen. Diese sind in unterschiedliche Regionen gegliedert. Für den Bereich der Regionen Süd und Süd-West zu dem auch die Filiale Heilbronn zählt besteht ein

Selection issues

- In principle, an analysis of court behavior needs to consider decisions of worker and firms taken prior to the filing of the case.
- Selection bias is very likely excluded by the nature of our data:
 - Impact of workers' conduct excluded as dismissals were based on operational reasons.
 - Firms' decisions were dictated by overarching economic rationale.

Selection issues

- Self-selection of workers going to court would only matter if composition of workforce differed across outlets.
- Different regional labor markets only matter to the extent that they make workers believe that they favor or disfavor a court-ruling or reflect opportunity costs.

Descriptive statistics

- Cross section variation of dependent variable
- Time variation of dependent variable
- Explanatory variables

Table 1: Distribution of cases by labor court and winning employees

Location of labor court	Total number of cases	Cases won by workers	Percent
Berlin	67	36	53.7
Mannheim	29	29	100.0
Ludwigshafen	18	2	11.1
Freiburg	16	15	93.8
Halle	11	6	54.5
Heilbronn	8	1	12.5
...			
Total	221	136	61.5

Table 2: Summary statistics of explanatory variables

Variable	Obs.	Mean	Median	Min	Max
Tenure (years)	216	8.62	7	1	39
Age (years)	176	40.5	40	24	62
Children (dummy)	221	0.29	.	.	.
Married (dummy)	221	0.41	.	.	.
Gender (dummy)	221	0.37	.	.	.
Citizenship (dummy)	221	0.95	.	.	.
Union attorney (dummy)	221	0.80	.	.	.
Gross monthly wage (Euro)	207	2,220	1,950	825	12,867
Majority female (dummy)	216	0.17	.	.	.
Same gender (dummy)	216	0.65	.	.	.
Regional unemployment rate (percent)	221	13.7	11.2	6.6	22.0

Regression results

Table 3: Probit regressions

Dependent variable: Employee winning					
					Marginal effect
Tenure	0.04 (0.273)			-0.06 (0.088)	-0.02
Age	-0.03 (0.000)			-0.02 (0.128)	-0.01
Children	0.20 (0.243)			0.52 (0.030)	0.20
Married	0.18 (0.412)			-0.07 (0.760)	-0.03
Gender		0.44 (0.043)	0.53 (0.017)	2.39 (0.000)	0.76
Citizenship		-1.44 (0.020)		-5.65 (0.000)	-0.70
Union attorney		0.99 (0.055)		2.05 (0.002)	0.55
...

Table 3: continued

Dependent variable: Employee winning					
					Marginal effect
...					
Gross monthly salary			-0.00 (0.206)	-3*10 ⁻⁴ (0.018)	-10 ⁻⁴
Job dummies			Yes (0.001)	Yes (0.000)	.
Majority of female judges				0.21 (0.331)	0.22 (0.467)
Same gender				0.34 (0.013)	1.65 (0.000)
Regional unemployment rate					3.91 (0.006)
Court location dummies	Yes (0.000)	Yes (0.000)	Yes (0.000)	Yes (0.000)	Yes (0.000)
Quarterly time dummies	Yes (0.000)	Yes (0.001)	Yes (0.001)	Yes (0.000)	Yes (0.000)
Number of observations	114	149	134	148	104
Pseudo R ²	0.24	0.26	0.29	0.23	0.51

Table 4: Goodness of fit

	Fixed effects only		Comprehensive model	
	Cases	Shares	Cases	Shares
Overall	109 (149)	73%	92 (104)	88%
Worker winning	55 (75)	73%	49 (55)	89%
Firm winning	54 (74)	73%	43 (49)	88%

Note: A model of time fixed effects only “explains” 69 out of 104 cases.

Robustness

- Separating data along “Beendigungs-” und “Änderungskündigungen”
- Dropping data for specific periods
- Threshold in fitness measure
- Definition of variables (e.g., *children* and *married*)
- Sample characteristics GSOEP (c.f. Goerke and Pannenberg 2010)

Conclusions

- Evidence supports the notion that courts take into account social criteria.
- Courts, however, also take into account other case characteristics – our time and court fixed effects are particularly strong.
- Uncertainty remains over court outcomes through discretionary decision making --> normative implications

Figure 1: Cumulative distribution of cases over time

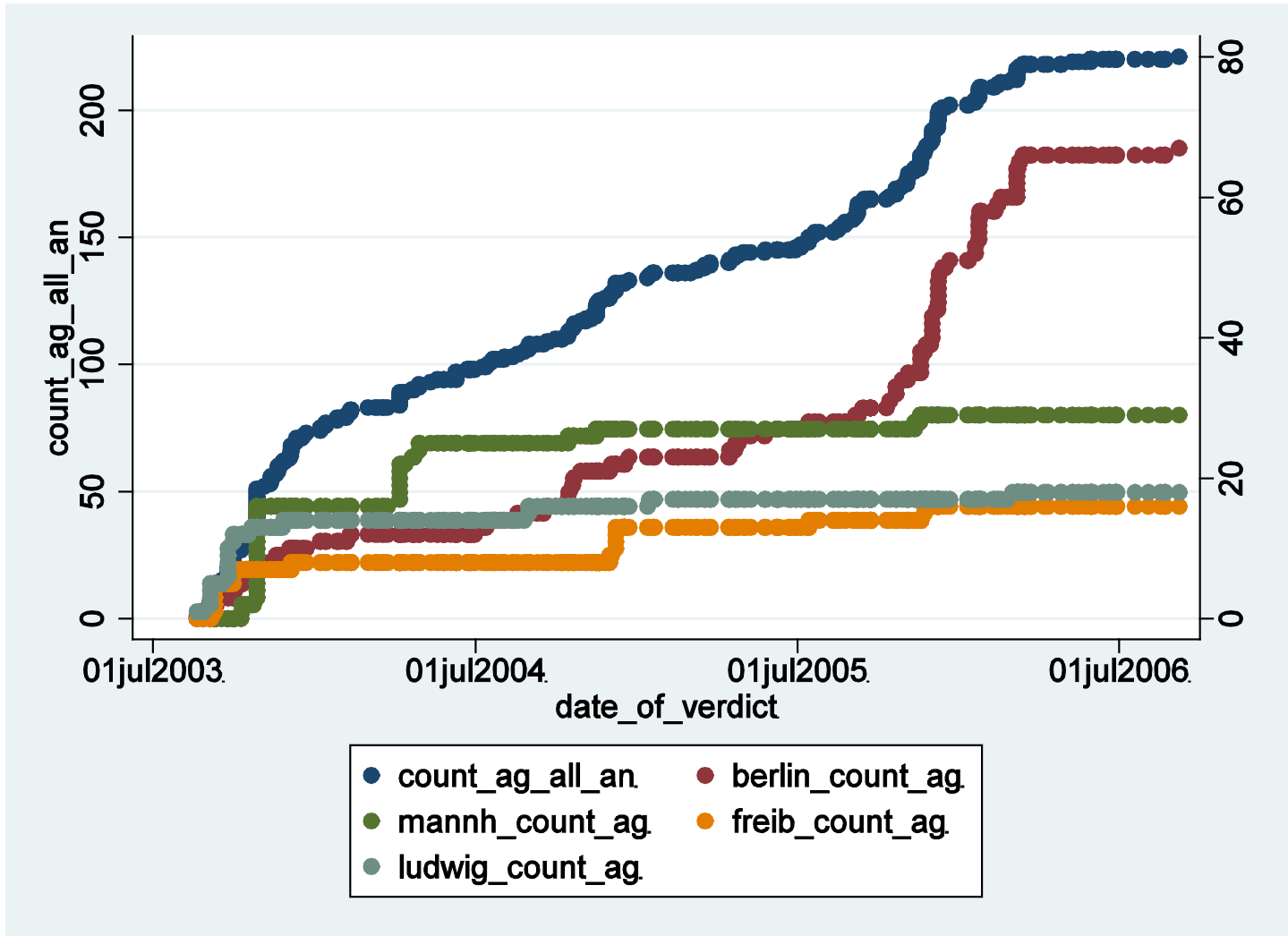


Figure 2: Ratio of cases won by workers over time

