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Employment relations without collective bargaining and strikes: the unusual case of civil servants in Germany

Berndt Keller 

ABSTRACT

The article deals with the widely neglected employment relations in the public sector of Germany with a special focus on civil servants. It is subdivided into two main parts. A shorter part elaborates on public employees and collective bargaining, a longer one on civil servants and their diverging forms of employment relations without the right to collective bargaining and strike. In order to better understand major changes that have taken place since the mid-2000s, we chose a long-term perspective and examine traditional as well as present forms of interest representation. Limited degrees of decentralisation and their lasting diverging consequences are analysed in great detail.

1 INTRODUCTION

Traditionally, the public sector has been widely ignored in research on employment relations in Germany. For different reasons, this obvious neglect is difficult to explain and to justify. The practical reason is that the public sector has more than 4.8 million employees,¹ about 10 per cent of the total workforce. The theoretical reason is that there are persisting legal–institutional differences (–dualism of private law status for public employees or *Tarifbeschäftigte* versus public law status for civil servants or *Beamte*). Civil servants are allowed to form and to join trade unions and interest organisations but, in contrast to all other employees, do not have the right to bargain collectively or to go on strike. In this focal regard, legal differences in status and rights are not, as one would assume, *between* private industry and the public sector but *within* the latter (Keller and Henneberger, 1999 for details).

Existing research focuses on the employment conditions of public employees (Di Carlo, 2019). Comparative studies that include Germany (European Commission, 2013; Vaughan-Whitehead, 2013) or deal exclusively with Germany (Schmidt et al., 2011, 2018) follow the same pattern and face the same problems. In contrast to these contributions, this article focuses on the indicated deficit under special consideration of the extraordinary employment situation of civil servants. How do their interest organisations manage to pursue and enforce their group-specific interest without having the usual means of collective bargaining (CB) and strikes at their disposal?

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¹ It comprises 3.1 million public employees and 1.7 million civil servants.

Furthermore, has this traditional constellation changed after legal amendments of the institutional design were introduced in the late 2000s? From a more general perspective, the article contributes and brightens a major dark spot in the existing literature on public sector employment relations (Bach et al., 1999; Bach and Bordogna, 2016; Dell’Aringa et al., 2001).

Part one elaborates on public employees and CB, part two on civil servants and their diverging forms of employment relations. In order to better understand fundamental changes and their consequences, we chose a long-term perspective spanning a period of several decades. Therefore, both parts are subdivided into (shorter) traditional and (longer) present forms of interest representation. We deal exclusively with the sectoral level of the ‘dual system’ and leave the organisational level (dienststelle) untouched.² We focus on developments in Germany but introduce, whenever appropriate, some comparative aspects. Throughout the article, we argue primarily from an employment relations not from a public administration systems’ perspective (Gottschall et al., 2015).

2 SOME STYLISED FACTS ON THE TRADITIONAL SYSTEM OF COLLECTIVE BARGAINING AND INSTITUTIONAL STABILITY

In international comparative perspective (Bach and Bordogna, 2016), the traditional system of CB was highly centralised and resulted in standardised working conditions in terms of wages and salaries, weekly working hours and bonus payments. Its structures and procedures of ‘joint bargaining’ were fairly unusual for the public administration of a *federal polity* with three layers of multi-level governance (federal or Bund, state or Bundesland and municipal or Gemeinden/Gemeindeverbände) that are legally independent from each other—but were empirically interrelated in CB. Since the 1960s, the encompassing tripartite coalition of all employers’ associations of all three levels bargained collectively with the major union Public Services, Transport and Communication Union (Gewerkschaft Öffentliche Dienste, Transport und Verkehr; Keller, 1983, McPherson, 1971).³

The results of CB were transferred to all civil servants on a strict one-to-one basis without any substantive reductions or temporal delays. This quasi-automatic transfer happened not by CB but by decisions of the federal parliament (Bundestag) after a draft bill of the Minister of the Interior (Bundesminister des Innern) had initiated this procedure. The federal railroad (now Deutsche Bahn AG) and federal postal service (now Deutsche Post AG, Deutsche Telekom AG and Deutsche Postbank AG) were also part of this encompassing CB structure and copied its results with some sector-specific adaptations. This configuration of intrasectoral ‘pattern setting’ and ‘pattern following’⁴ changed only in the mid1990s when measures of (semi-) privatisation of the major monopolies of public infrastructure took place, opened

² Cf. for the special Staff Representation Acts and ‘collective voice’ by staff councils Keller/Schnell 2003 and 2005. They are the functional equivalent of works’ councils in private industry, both are not allowed to go on strike.

³ Until 2001, the foundation date of the conglomerate Unified Service Sector Union (Vereinte Dienstleistungsgewerkschaft - ver.di) (Keller, 2005), its major predecessor, Gewerkschaft Öffentliche Dienste, Transport und Verkehr, was the most important CB partner. In the course of time smaller unions also participated but were less influential in differing bargaining coalitions.

⁴ This intrasectoral hypothesis is different from the frequently made assumption of intersectoral pattern bargaining. Actually, Germany is not an example for export sector-led pattern bargaining that cannot account for wage restraint in the public sector (Di Carlo, 2018).

them to private competition and, thus, put former public sector wages under pressure. Nowadays, these organisations lead independent negotiations of their own and have more ‘flexible’ working conditions within a different regime of employment relations.

This structure, which was stepwise established in the late 1960s/early 1970s, kept existing for several decades despite all major turbulences, such as the sudden and unexpected German unification and the necessary complete reconstruction of the public sector in the new states (in the early 1990s), extensive neoliberal critique of an ‘oversized’ public sector with its highly inflexible and rigid ‘bureaucracy’ resulting in a ‘cost disease’, various measures of liberalisation, privatisation and outsourcing (throughout the 1990s), the introduction of the deficit criteria of the Maastricht Treaty and the following, even stricter Stability and Growth Pact of the European Monetary Union (in the late 1990s), as well as various measures of new public management (NPM) with ‘its logic of the market’ including increased managerialism (throughout the 1990s and early 2000s). Despite substantial and persisting distinctions in their legal status, differences, not to argue contrasts in working conditions of both groups, hardly existed, and the CB system was not substantially changed.

3 RECENT INSTITUTIONAL CHANGES OF THE MODES OF GOVERNANCE AND THEIR CONSEQUENCES

In the mid2000s, employment relations changed significantly for public employees as well as civil servants. The underlying reasons were rather different, but major consequences (among others, decentralisation and more vertical and horizontal segmentation) were similar. These institutional and legal transformations were, in contrast to major modifications in other countries (EPSU, 2018), not caused by the financial and debt crisis in 2008/2009. Its aggravated consequences for fiscal austerity policies hit the public sector especially hard in the so called ‘program countries’ (Broschinski et al., 2018; Vaughan-Whitehead, 2013).

In contrast to other countries after a short but deep crisis, the German economy recovered quickly from the recession and commenced a lengthy period of growth that lasted almost throughout the 2010s. In Germany, as well as Sweden, the other major exception, cutbacks and ‘restructuring’ in the public sector took place well *before* not *because* of the ‘Great Recession’ and were not caused by supranational intervention (such as the Troika or other European institutions) or ‘globalised’ markets but exclusively by decisions at national level. Major cutbacks and measures of fiscal consolidation took place already in the 1990s and early 2000s and had lasting consequences for the welfare state in general and the size of the public sector in particular. In international comparative perspective, the drastic decline of employment in the German case (from 6.7 to 4.5 million or more than 30 per cent) was without parallel.⁵ It changed the character of the public sector and strengthened the continued existence of a ‘lean state’ (Keller, 2016).

In the early/mid2000s, a general discussion about a fundamental reform and comprehensive ‘modernisation’ of the public sector and its CB system (Tarifreform des öffentlichen dienstes) took place. In 2005, the major consequences of this sector-specific form of integrative bargaining (Walton and McKersie, 1991) were the abolishing of all traditional status differences between blue-collar workers

⁵ In figures: 1991, the year of unification, 6.7 million; 1995, 5.4 million; 2000, 4.9 million; 2005, 4.7 million; 2010, 4.6 million (Keller, 2016: 194–195).

(Arbeiter) and white-collar employees (Angestellte) and the introduction of a unified status (Tarifbeschäftigte).⁶ Furthermore, a new low wage grade for entrants at the bottom level (EG 1) was supposed to prevent further outsourcing measures at municipal level. Principles of performance related pay (leistungsorientierte Bezahlung), a core instrument of efficiency-oriented NPM concepts ('Neues Steuerungsmodell'), were introduced.⁷ Last but not the least, fundamental revisions of the existing and the introduction of new encompassing salary rules ('neue Entgeltordnung') were intended but could not be agreed on (Schmidt et al., 2011 for details). This stalemate led to lasting protracted conflicts.

3.1 The end of the bargaining coalition

During this process of administrative modernisation, long existing and always latent differences of (economic as well as political) interests within the above-mentioned bargaining coalition of all public employers turned into manifest conflicts. Until the mid2000s, representatives of public employers had always argued that isolated bargaining could possibly lead to some financial advantages in the short run, but that in the long run, it would be more favourable for all of them to stay together at any prize instead of trying 'to go alone'. Their bargaining coalition never constituted a monolithic bloc, but existing conflicts of interest between the three levels (low pay increases versus political survival) were always successfully mediated by complex strategies and procedures of intra-organisational bargaining (Walton and McKersie, 1991). The (more or less) cooperative relationship of the bargaining coalition lasted for more than four decades.

To cut a long story short (see Di Carlo (2019) for details). Finally, in 2003, the Bargaining Association of German States [Tarifgemeinschaft deutscher Länder (TdL)] decided to leave the bargaining coalition it had maintained with their federal and municipal counterparts [Vereinigung der kommunalen Arbeitgeberverbände (VKA)]. The indicated reasons were the accumulation of dissatisfaction with procedures and outcomes of centralised CB as well as major changes of their long-term cost benefit analysis, the strategic choice to cut costs (at almost any prize). Furthermore, the necessity to consolidate their budgets in times of high and increasing structural deficits caused growing (fiscal) strain and resulted in their 'exit'.

The termination of the era of strict vertical coordination, not to say integration, represented the end of its encompassing collective contracts that had dominated for several decades.⁸ The necessary consequence of 'exit' instead of the continuation of 'voice' meant the end of the formerly existing unitary routine of CB and the emerging need to replace it by a less centralised system. Since the mid2000s, there have been two bargaining contracts for the municipal and the federal level on one side

⁶ There are now uniform descriptions of job classification and 15 integrated salary groups. Each group consists of six grades from initial to final salary. Progression is now based on individual experience and performance instead of seniority and length of service.

⁷ Cf. Matiaske and Holtmann, 2007 and Schmidt and Müller, 2013 on the (fairly limited) empirical consequences of this management instrument. All in all, new public management (NPM) has been, with the partial exception of the municipal level, of less overall importance in Germany (Bogumi, 2014; Kuhlmann et al., 2008) than in, among others, especially Anglo-Saxon countries (NPM versus neo-Weberian reform models). The NPM paradigm demands new forms of human resource management but pays hardly any attention to various forms of interest representation, especially unions.

⁸ Bundes-Angestelltarifvertrag, Manteltarifvertrag für Arbeiterinnen und Arbeiter des Bundes und der Länder and Bundesmanteltarifvertrag gemeindlicher Verwaltungen und Betriebe.

(Tarifvertrag für den öffentlichen Dienst since 2005) and the state level on the other [Tarifvertrag für den öffentlichen Dienst der Länder (TV-L) since 2006].⁹ Despite earlier threats to leave TdL, the vast majority of states decided to stay together, to maintain TdL as their bargaining representative and, thus, to preserve their horizontal coordination.¹⁰

3.2 A new form of reduced ‘joint bargaining’

This CB structure and its new arrangement of ‘joint bargaining’ is somehow unexpected and surprising because, at least on first glance, one would rather expect a coalition of the municipal and the state level. The Federation of Municipal Employers Association (VKA) is confronted with more heterogeneity in working conditions (and, therefore its CB strategies) than the Minister of the Interior at federal level.

The federal level comprehends 10, the states 51, municipalities 31 and social insurances, a German specificity, about 8 per cent of all public employees (DBB, 2019).¹¹ Expenses on salaries (as percentage of overall expenditure) are much higher at state (about 37 per cent) than at federal (about 10 per cent) and municipal level (about 26 per cent). This specific skewed distribution has to be explained by the constitutionally assigned and prescribed distribution of public tasks and responsibilities that requires a high level of qualified personnel resources.¹² The overall distribution has remained relatively stable over time.

Salaries as a percentage of overall expenditure are much higher at municipal than at federal level, and the financial preconditions differ significantly between the great numbers of municipalities. Furthermore, a certain number of municipalities, especially in the west, suffer from high public debts as well as high social expenses and, therefore, low investment (Keller, 2014). Due to favourable overall economic conditions, the overall financial situation of municipalities has improved in most recent years, but there are growing regional differences with groups of rich as well as poor municipalities (Bertelsmann Stiftung, 2019). Their opposing interests are difficult to mediate, and their room for financial manoeuvring differs significantly.

The federal fiscal system does basically not allow municipalities to levy taxes to finance their expenditures. Their political choice in taxation is strictly limited and depends on the system of (limited) redistribution between the three levels (Finanzausgleich). Furthermore, VKA members are encompassing organisations, and within their ‘logic of influence’, they face major difficulties and have to represent diverging interests (Hoppe, 2017; Keller, 2017a). Their density ratios are high, at about 90 per cent.

⁹ Tarifvertrag für den öffentlichen Dienst allows more separate sectional (regional) collective agreements (Spartentarifverträge) than its predecessors, among others for utility, hospitals, savings banks, care facilities, disposal, social and educational services (Schmidt, 2019). Already in 2000 a collective agreement on public utilities had been signed (Meerkamp, 2008).

¹⁰ The state of Hesse dropped completely out and started to negotiate a collective contract of its own. Since 2010, the Tarifvertrag-Hessen(TV-H) constitutes the only example of ‘single employer bargaining’. Berlin was expelled by Tarifgemeinschaft deutscher Länder in 1993 because it applied the western collective agreement in East Berlin. However, Berlin rejoined Tarifgemeinschaft deutscher Länder in 2012.

¹¹ In all official German statistics, the employees of social insurance organisations are counted as part of public sector employees but as a separate category.

¹² The states as sovereign powers are, among others, in charge of education, police, the judicial system and financial administration.

3.3 Structural and systemic consequences

The assessment of these developments depends on the observers' position. From a purely national point of view, it is quite remarkable and constitutes more than a gradual shift, especially in comparison with the status quo ante of a high degree of centralisation. However, in international comparative perspective, it is not at all unusual not only in comparison with any other federal polity and their highly decentralised CB systems as in all Anglo-Saxon countries but also more recently in Scandinavian countries (Hansen and Seip, 2018). Germany experienced a mild and limited variant of decentralisation (from the macro to some kind of meso level), and therefore, a 'latecomer' moved from the rather exceptional to a comparatively normal case (OECD, 1997).

These changes that were not initiated by all employers but only by TdL are of more than incremental nature. However, consequences would have been more severe and lasting if TdL had completely collapsed or major groups of municipal employers had left their associations. In contrast to earlier expectations, the split of the bargaining coalition on the employers' side had no major consequences for the existing structure of 'multi-employer bargaining' that is after its decentralisation still far away from 'single-employer bargaining'.

These changes do definitely neither constitute a collapse, fragmentation, de-institutionalisation nor the end of controlled and organised CB (adapting Traxler's (1997, 1998) private industry typology to the public sector). Former 'customs and practice' still exist. Unions and employers' associations managed not only to survive but also to remain in charge of all procedural and substantive regulation of employment relations. Industry-level respectively. nation-Fwide CB is, in contrast to a growing number of other sectors, still the dominating form (Flächentarifvertrag) and the number of 'bargaining units' is still very small. In contrast to developments towards more disorganised decentralisation in other countries (Grimshaw et al., 2017), adverse outcomes from the employees' point of view, such as undermining or erosion of existing standards, do hardly take place.

Processes of decentralisation started later than in private industry and were less far reaching. In contrast to private industry where coverage rates of CB have deteriorated more than 20 per cent since the mid1990s (Ellguth and Kohaut, 2018), the arrangement of sectoral CB has remained intact and fairly stable despite changing arrangements. A changed form of institutional stability has come into existence. Coverage rates of the public sector are close to 100 per cent, an exceptionally high percentage and the consequence of high density ratios plus still existing multi-employer bargaining. Density ratios of unions are far above the national average of at present less than 20 per cent¹³ and therefore organisational and bargaining power of unions persist. The public sector constitutes, as in comparable countries, the traditional stronghold of unions.

Outcomes are different from changes in the public sector of other EU member states (Vaughan-Whitehead, 2013). Nevertheless, this transformation of the former structure of 'joint bargaining' constitutes new problems we have to elaborate on. Among others, unions' transaction costs (Williamson, 1985, 1996) have increased

¹³ Differences are even larger if one takes only private service sectors as the point of reference.

because two instead of one major contract have to be negotiated and implemented in the present CB structure.

3.4 Impact on strikes

The impact on strikes that are rare anyhow is limited; only warning strikes happen more or less regularly shortly before and during CB rounds. There were only three big strikes (1974, 1992 and 2006) (Keller, 2017b). During the age of the unified CB system, strikes took place exclusively at municipal level (among others, in union bastions of sensitive services such as public transport and waste disposal) and had a significant impact on the working conditions of all public employees because of the high degree of centralisation. Later on, *ver.di* had to rearrange its established proven strike tactics and to mobilise new not strike-prone groups of public employees (especially in health and education) because independent negotiations now take place at state level. From the union point of view, strikes at state level are more difficult to organise because their density ratios are lower than at municipal level. However, as most recent experience shows, they are by no means impossible.

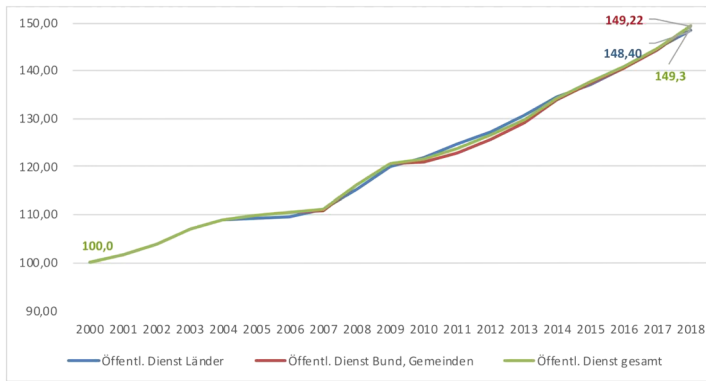
Last but not the least, what are the substantive outcomes for employees? There are two subsystems of CB at federal/municipal and state level. They are legally independent from each other, and their negotiations are not synchronised. Nevertheless, they lead to very similar but not identical results (Schmidt et al., 2018). In empirical perspective, after more than one decade, long-term differences do not exist (Figure 1). Both forms are more than mere parallel bargaining and constitute a sequence of 'loose coupling' without a strict relationship of 'pattern setting' and 'pattern following'. The most frequent arrangement is that *Tarifvertrag für den öffentlichen Dienst* is negotiated first and *TV-L* shadows its results with only minor deviations. Furthermore, payment structures (with 16 pay grades) are the same in both collective contracts. Some observers argue that the results of *TV-L* negotiations constitute some sort of a blueprint for regulations for civil servants at state level (Dose and Wolfes, 2016).

Comparisons of pay can be of intrasectoral or intersectoral nature. In contrast to frequent popular assumptions, if one controls for the usual characteristics, there is definitely no general 'wage premium' of the public sector (Schmidt et al., 2018). Quite the contrary is true for the time period since 2000: In comparison with the entire private sector, small differences exist at the expense of the public sector (Figure 2). More recently, in times of increasing public budgets and low interest rates, unions have not been able to close the gaps. The existing differences grow, however if one takes manufacturing, the largest private sector.

4 SOME STYLISTED FACTS ON TRADITIONAL CIVIL SERVANTS' EMPLOYMENT RELATIONS

In comparative perspective, three principles of public sector governance are to be distinguished: CB as the sole or prime method, more or less unilateral decision making by public authorities and mixed forms (Traxler et al., 2001). As already mentioned, employment relations in Germany are, at least from a legal perspective, of strictly hybrid nature (bargaining model versus legislation model). In other words, the public sector traditionally constitutes a mixed form of regulation and interest representation.

The history of the special legal status of civil servants dates back at least to the 19th century and managed to survive all fundamental changes of the political system (Gottschall, 2017; Schmidt and Müller, 2018). It is guaranteed in the Basic Law



Source: Original data provided by WSI, own calculations, <https://www.boeckler.de/tools/tarifabschluesse/index.php>

(Öffentl. Dienst Länder: Public sector state level; Öffentl. Dienst Bund, Gemeinden: public sector federal, municipal level; Öffentl. Dienst gesamt: public sector total)

Figure 1: Pay in the public sector 2000–2018. Source: Original data provided by WSI, own calculations [Colour figure can be viewed at wileyonlinelibrary.com]

whose Article 33 refers explicitly to the ‘traditional principles of the professional civil service’ (‘hergebrachte Grundsätze des Berufsbeamtentums’) (Bull, 2006; Studienkommission, 1973). Since the 1960s, the unique public law status has been politically contested once in a while. Existing laws have been amended and modernised in different regards but not fundamentally changed or even abolished.¹⁴

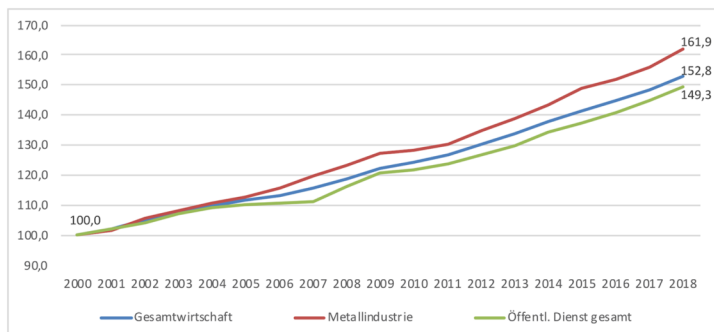
Civil servants have the freedom of coalition (Article 9 of the Basic Law) but are according to widely accepted legal views not allowed to CB and to take industrial action.¹⁵ The otherwise relevant principle of bargaining autonomy (Tarifautonomie) is not valid, and their interest organisations are no veto players. Therefore, there are, in contrast to CB for public employees, no voluntarily concluded mediation agreements for solving collective disputes of interest (Schlichtungsabkommen).

4.1 Structures and forms of interest representation

There are two federations. The German Federation of Civil Servants and Bargaining Union [Deutscher Beamtenbund und Tarifunion (DBB)] with more

¹⁴ In empirical regard, the legal distinction of status groups is frequently ambiguous. The same tasks can be executed by employees with differing legal status. Teachers constitute one prominent and frequently quoted example: Teachers with different status work side by side in the same school. Despite these factual overlaps, legal differences continue to exist.

¹⁵ In 2018, the Federal Constitutional Court confirmed in a judgement the general strike ban for civil servants (Bundesverfassungsgericht, 2018a, 2018b). It had been contested not by DBB-member organisations but by some DGB-affiliated trade unions who had demanded to abolish the long-standing legal prohibition. This verdict is in force for all civil servants as a status group and not only, as in other countries, for specific groups who execute ‘core functions’ that constitute essential services because they are of crucial importance for the general public, such as policemen or firefighters and especially sovereign tasks (hoheitliche Aufgaben) (Federal Ministry of the Interior, 2009). The alternative would have been the change towards a function-related right to strike that would have granted some groups of civil servants, such as teachers, this option (Schuppert, 2014).



Source: Original data provided by WSI, own calculations, <https://www.boeckler.de/tools/tarifabschluesse/index.php>

(Gesamtwirtschaft: economy; Metallindustrie: metal, Öffentl. Dienst insgesamt: public sector total)

Figure 2: Pay in the overall economy, manufacturing and the public sector. Source: Original data provided by WSI, own calculations [Colour figure can be viewed at wileyonlinelibrary.com]

than 40 professional and status organisations traditionally focus on civil servants and the representation of their specific interests (but has nowadays also 390,000 public employees as members). The German Trade Union Federation [Deutscher Gewerkschaftsbund (DGB)] organises mainly public employees. DGB affiliates¹⁶ organise about 450,000 and DBB members about 900,000 civil servants (Greef, 2014).¹⁷ Thus, their density ratios are far above the national average.

The relationship between DBB and DGB was previously characterised by political and ideological differences. Nowadays, it can be described as pragmatic coexistence and mutual recognition. It is partly of competitive partly of cooperative nature.¹⁸ Since 2007, forms of organised cooperation have been maintained in a bargaining coalition between ver.di, a DGB affiliate, and the bargaining wing (Tarifflügel) of DBB. Nowadays, interassociational competition is less important than it used to be.

CB and strikes are always considered necessary prerequisites for efficient interest representation. These conditions lead to the question how civil servants' organisations are able to act despite the fact that working conditions are unilaterally defined by law. How do they manage to effectively push through the group-specific interests of their members? Furthermore, have these preconditions for the resolution of distributional conflicts changed when existing modes of governance were replaced?¹⁹

¹⁶ Ver.di, Police Union (Gewerkschaft der Polizei), Union of Education and Science (Gewerkschaft Erziehung und Wissenschaft). The otherwise dominant organisational principle of industrial unionism ('one company one union') is not valid for the public sector with its traditional 'multi unionism'.

¹⁷ These ratios are rough estimates and include an unknown number of retired civil servants.

¹⁸ One major difference in the employment relations perspective is the fact that the DGB demands the right to CB and to strike for civil servants whereas the DBB does not because it fears the loss of status rights. There are hardly any fundamental differences on other issues, such as income policy or working hours.

¹⁹ Research on the impact of interest organisations on political decision making does not deal with the public sector. Unfortunately, there are only few studies on civil servants' federations (Ellwein, 1980; Keller, 1983). Both are outdated and need to be revised and updated after the legal frame of reference has changed.

Quite in general, the opportunities of civil servants federations differ significantly from CB by trade unions (Keller, 1983, 1993):

- As partial compensation for the nonexistent rights to CB and to strike, the federations have rights of participation and consultation in preparatory stages of the policy cycle even before parliamentary decisions on working conditions and other issues are made.²⁰ Since the mid-1990s, there have also existed additional special agreements on procedures and schedules of extended participation rights between the Federal Minister of the Interior (Bundesminister des Innern) and both federations.²¹ Before the meetings take place, DBB as well as DGB have not only to aggregate but also to mediate the differing group-specific demands of their member organisations in order to define a common denominator. These guaranteed rights do not include legal claims but constitute more than the pure exchange of opinions.
- Furthermore, informal channels of interest representation and implicit political bargaining, such as specific lobbying activities and personal contacts with individual MPs as well as members of the ministerial bureaucracy, exist. These opportunities can be especially used during the later stages of parliamentary decision making. Interest representation is facilitated by informal networking activities along traditional party lines (DGB more with social democrats, DBB with conservatives).
- Furthermore, civil servants have traditionally constituted a disproportionately high percentage of MPs in general and members of the responsible Home Affairs Committee (Innenausschuss) in particular. Therefore, specific interests of this status group are directly represented within parliament, and its most important committee for all civil service matters.
- DBB frequently refers to the Basic Law especially to the above-mentioned 'traditional principles of the professional civil service' (among others, the alimentation principle or *Alimentationsprinzip*)²² to legitimise demands and at least to prevent less favourable outcomes. In the highly 'juridified' system of employment relations access to legal means and instruments constitutes a frequently used and successful form of interest representation. (We come back to this strategy later on.)
- Threats of political nature mean the withdrawal of one's vote in forthcoming elections (and possibly also those of family members) in order to enforce concessions from politicians. Their existence is difficult to verify empirically because they are not made in public. However, in political economy (or public

²⁰ Traditionally Par 118 *Bundesbeamtenengesetz*, more recently also Par 53 *Beamtenstatusgesetz* at federal and similar regulations at state level. Par 118 of the Federal Law on Public Servants states on the 'representative of civil servants': 'The top organizations of the relevant trade unions must be involved in the preparation of general regulations of the law on official law.' Par 53 of the Civil Servants Status Law states on the 'participation of the top organizations': 'In the preparation of legal regulations of the official law by the supreme state authorities, the top organisations of the relevant trade unions and professional associations are responsible for to take part. The participation process can also be shaped by agreement.' (own translation)

²¹ The Bundesminister des Innern occupies a focal position in both subsystems. He represents the federal level in CB and prepares all laws for civil servants. There are always extensive coordination measures with the Minister of Finance (Bundesminister der Finanzen).

²² The principle of alimentation (Article 33(5) of the Basic Law, different rulings by the Federal Constitutional Court) covers the official remuneration and care for the civil servant and his family for life. The legislator has a wide margin of manoeuvre in the design, which includes the possibility of developing a flexible form of regulation that meets these requirements.

choice) perspective, at least the implicit option exists, and is credible, particularly when elections are imminent. It has, especially in times of volatile political majorities, to be taken into regard by politicians whose priority is to be re-elected.

- Furthermore, public demonstrations as legitimate forms of interest articulation are repeatedly used by all or individual groups of civil servants, such as teachers and judges, to push through their group-specific interests or to support demands.²³ Both sides struggle for the necessary support of the public, and their relative success changes in the course of time and the public discourse. Therefore, the otherwise typical form of bilateral CB turns into a multilateral one of mobilisation and political bargaining. The political dimension of public sector employment relations has to be taken into regard.

The empirical impact of this legally guaranteed access on the decision making institution and other forms as well as instruments of interest representation is difficult to assess. However, it is justified to argue in an ex post view that, for several decades, these formal as well as informal opportunities provided a functional equivalent for CB. During the lengthy era of encompassing centralisation these strategies, especially if they were linked, provided sufficient mechanisms to prevent major group-specific disadvantages of civil servants despite their missing bargaining autonomy and the ban on strikes. The above mentioned informal but stable specific sequence of intrasectoral ‘pattern setting’ and ‘pattern following’ led to identical results despite differing legal preconditions. However, we analyse in the next section how the legal preconditions have changed in the course of time. We demonstrate that similar rights of participation and consultation exist at federal and state level but that their outcomes can be quite different.

In power resources theory, various forms can be distinguished (Gumbrell-McCormick and Hyman, 2013). They also exist in the public sector but have to be modified (Schmidt et al., 2019):

- *Institutional power* is in our case mainly constituted by established legal rights to hearings and consultation at peak-level as well as other external legislative support. They also include the frequent recourse on the Basic Law as well as the existence and use of legal means. (We come back to a more recent example later on.) However, these opportunities are definitely different from institutionalised CB rights of trade unions and are therefore of limited scope in comparison with their counterparts in private industry.
- In contrast to trade unions, both civil servants’ federations cannot completely utilise their *organisational power*, among others in form of strikes, because of the verdict to bargain collectively and to go on strike. In a more detailed analysis this broad category can be separated in two subforms, ‘ability to pay’ and ‘ability to act’. In the case of civil servants, their comparatively high density ratio indicates that members are able and willing ‘to pay’. However, they are not allowed ‘to act’ and to take industrial action. Nevertheless, organisational power, that is sometimes labelled associational power, can be

²³ In case of strikes by public employees, civil servants must not provide substitute work. Furthermore, they can indirectly support strike action by public demonstrations (or work according to the rule).

effectively used in formal and informal forms of political bargaining and lobbying.

- Public support and, in terms of power resources theory, the *societal power* of unions have increased. The importance and value of the public sector not only for the economy but also for the society is nowadays at least partially acknowledged whereas harsh public criticism based on neoliberal thinking dominated throughout the 1990s. However, the public struggle for *coalitional (or collaborative) power* is a difficult contest. There is countervailing interference of public employers and their associations as well as limited public support and solidarity for group-specific demands.
- *Structural power* also exists because of scarce individual skills and focal positions in the process of providing public services. However, civil servants cannot efficiently use it because of their strike ban.

4.2 Legal changes: The centralisation of legal authority

During the decades after the Second World War, the system of legal authority for civil servants codified in the Basic Law (Article 72) was of federal nature and decentralised.

In the late 1960s/early 1970s, it was stepwise centralised (Gunlicks, 2003; Keller, 1990). For several years, public employers pushed hard for this far-reaching change that even required a modification of the Basic Law (Article 74a). The public employers constituted the driving forces and tried intensely to finish the competition in working conditions of civil servants (such as teachers) that existed not only with private industry but also within the public sector. At first, unions and interest organisations refused these plans because they feared that the intended changes would curtail their room for political manoeuvring. They agreed only after concessions for specific groups (so-called structural improvements and special bonuses) had been made.

As already mentioned, the overarching consequence of this complicated compromise towards ‘harmonisation’ was an implicit structure of strict ‘pattern setting’ and ‘pattern following’ *within* the public sector that lasted throughout the following decades.²⁴ The results of CB were transferred to civil servants on a strict one-to-one basis without any substantive reductions or any temporal delays (‘Besoldung folgt Tarif’).²⁵ Thus, all public employees and civil servants were basically treated the same: Civil servants received the same increases of remuneration and had the same length of weekly working hours independent of their employment at municipal, state or federal level.²⁶ Differences in the legal status continued to exist but were factually less important at least as far as working conditions were concerned.²⁷

Since the mid1970s, all corporate actors shared the principle of ‘equality of living conditions’ (‘Einheitlichkeit der Lebensverhältnisse’) of all public sector employees.

²⁴ This structure is different from the frequently made (but empirically wrong) assumption that ‘pattern bargaining’ takes place in export sectors (metalworking industry and chemicals) and others, including the public sector, go along by ‘pattern following’. Such strict spillover mechanisms do not exist (Di Carlo, 2019).

²⁵ In the 1990s, rare attempts to break this informal rule failed. The ‘sovereign employer’ could not use its unilateral power.

²⁶ Schelling (1970) called such levels of expectation and comparison ‘focal points’.

²⁷ Because of this high degree of centralization and homogeneity, intergroup comparisons (among others, of teachers, policemen, and firefighters as frequently analysed in the USA) were rare.

Furthermore, in this ‘golden age of the welfare state’, the public sector was supposed to expand and to constitute the ‘model employer’ of protected employment (if not even the ‘employer of last resort’) not only for the public sector but for the whole economy (Gottschall et al., 2015).

5 LEGAL CHANGES OF THE INSTITUTIONAL DESIGN AND THEIR CONSEQUENCES

In the mid2000s, after protracted political negotiations the most important and most encompassing constitutional reform since 1949 took place. Reform of federalism I (Föderalismusreform I) was supposed to modernise governmental structures, to improve their efficiency and to stimulate transparency (Federal Ministry of the Interior, 2009). Among others it was supposed to initiate the transformation from ‘cooperative’ to ‘competitive’ federalism (by the change of Article 74 of the Basic Law).

More or less, as a by-product of this reallocation of political powers, major parts of the regulatory competence for civil servants who were employed by the states were transferred back from the federal to the state level (Battis, 2009; Czerwick, 2007). Since 2006, state governments and parliaments have (in a long-term perspective again) the jurisdiction for ‘their’ civil servants and can autonomously determine all their working conditions (first of all remuneration and working time) as well as the structure of hierarchical career groups (Laufbahngruppen) and all pensions.²⁸ Only the competence for status rights and obligations (Statusrechte und -pflichten) remains at the federal level.

This constitutional shift meant a partial loss of political–administrative power for the federal and an increase of such power for the state level. Among others, the former unitary Federal Remuneration Act (Bundesbesoldungsgesetz) was replaced by a series of heterogeneous State Remuneration Acts (Landesbesoldungsgesetze) with, as we will show differing outcomes.

This time public employers and their organisations were, in contrast to their strategy some decades ago, strictly in favour of the federalisation, or to be more precise refederalisation, of working conditions. In contrast to their previous choice in the early 1970s, employers intended to *stimulate* and not to *eliminate* competition on labour markets. In other words, this change indicated a complete U-turn of former unanimous preferences that was initiated because the basic preconditions of their collective action had changed. In both cases unions and interest organisations opposed the changes but were finally unable to prevent them.

5.1 Strategies and instruments of constraint

What are the outcomes of this legal modification for the working conditions of civil servants? In an employment relations perspective, one would expect (even short-term) consequences after measures of decentralisation had been introduced. And indeed at least some public employers reversed their former ‘strategic choice’ as a consequence of changes in the legal infrastructure. They tried to dismantle the former highly integrated system by various instruments. The traditional pattern of demands (by trade unions and interest organisations) and concessions (by public employers) has been overturned by the more systematic use of decoupling instruments.

²⁸ A detailed analysis of pensions is beyond the scope of our analysis (Fröhler, 2015).

Among others, strategies of consolidation measures include

- Only lower increases than agreed in CB for public employees are granted for civil servants;
- Increases of remuneration are delayed for some time by introducing so called zero months ('Nullmonate' without any increase) in relation to the results of CB;
- Differing increases are granted with higher percentage rise for certain, especially lower enumerated groups instead of the traditional equal improvements for all groups; this measure leads to relative disadvantages for higher ranked groups;
- Lump sum payments (Pauschalbeträge) for some or all groups instead of percentage increases are introduced;
- Regular weekly working hours (of formerly and for public employees 39, now 40 hours on average for civil servants) were extended at the federal level and in some states without corresponding increase of remuneration;
- Cuts or even abolition of special bonuses (such as Christmas or vacation bonuses) are made;
- Some states did not even wait for the CB results but impose future remuneration increases for 'their' civil servants in advance.

In order to intensify their consequences, these measures and instruments can be linked as well as frequently used. They are by no means new. Among others, they had already been applied in the 1990s in times of 'wage restraint' and a public sector specific form of 'concession bargaining' (Di Carlo, 2019 for details on the annual CB rounds). This time, however they are more heterogeneous and constitute the intended outcome of federalisation. The former strict principle of intrasectoral 'pattern setting' and 'pattern following' has at least been softened and weakened, if not even given up in some cases, especially at state level. As a consequence, remuneration can no longer be compared exclusively with pay in private industry but also within the public sector.

5.2 Consequences for working conditions

Since 2007, differences between states especially in remuneration but also in other regards, such as weekly working hours, have come into existence. Some state governments (first of all, Bavaria as well as the most prominent example, the federal government) continue the former pattern of equal treatment of all groups²⁹ whereas others successfully try to introduce new forms of regulation. There are growing and substantial discrepancies between richer (southern) and poorer (mostly northern) states (among others, Bavaria versus Berlin or Schleswig Holstein). All in all, working conditions have deteriorated and disparities have increased (Dose, 2013). Furthermore, there are differences for individual groups (such as entrants).

Most recent DGB publications indicate major (for some groups even annually several thousand Euro or double digits) differences in remuneration not only *between* but also *within* states (DGB, 2019a).³⁰ As already indicated, these strategies have been repeatedly utilised and therefore differences have accumulated in the course of time.

²⁹ At federal level, the remuneration of civil servants follows the results of TVöDt.

³⁰ The analysis takes the CB results at state level as its point of comparison.

Disparities have been widening at least for some (especially higher enumerated) groups and constitute lasting effects (Destatis, 2019).

The other federation, DBB, comes to very similar conclusions: ‘As part of the salary adjustments, the legislative competence transferred to the federal and state governments since 2007 has led to a noticeable divergence in the level and/dates of the salary adjustments. Furthermore, the proven harmony of the much equal income development of the status groups was no longer maintained in all authorities.’ (DBB, 2019: 38; own translation) Figure 3.

Working conditions (especially remuneration but also the length of weekly working hours plus their flexibilisation) are nowadays obviously more heterogeneous in *vertical* (between the federal, state and municipal level) as well as *horizontal* regard

Amt/Besoldungsgruppe	Eingangsstufe		Endstufe	
A 6	Bayern	Saarland	Bayern	Berlin
	2.429,90 €	2.180,66 €	2.935,87 €	2.644,03 €
	Unterschied	-10,26 %	Unterschied	-5,54 %
A 9	Bayern	Saarland	Bayern	Saarland
	2.816,29 €	2.582,79 €	3.605,50 €	3.317,59 €
	Unterschied	-8,29 %	Unterschied	-7,99 %
A 13	Bayern	Rheinland-Pfalz	Bund	Saarland
	4.438,01 €	3.744,70 €	5.474,48 €	4.581,37 €
	Unterschied	-15,62 %	Unterschied	-9,00 %
A 16	Bund	Berlin	Bund	Saarland
	5.904,51 €	5.368,85 €	7.490,04€	6.793,25€
	Unterschied	-9,07 %	Unterschied	-9,30 %

Source: DBB 2019, 49, https://www.dbb.de/fileadmin/pdfs/2019/zdf_2019.pdf

(A6: intermediate, A9: higher intermediate, A13 and A16: higher service.

Eingangsstufe: entrance stage, Endstufe: end stage)

Figure 3: Highest differences in civil servants' remuneration, 2018. Source: DBB 2019, 49 (https://www.dbb.de/fileadmin/pdfs/2019/zdf_2019.pdf) [Colour figure can be viewed at wileyonlinelibrary.com]

(between individual states and their specific career groups). The public sector constitutes less of a unitary entity than during its 'golden age' of only one highly integrated system without (major) differences. The former 'customs and practice' principles of 'equal pay for equal work' and 'equality of working conditions' are not valid any longer. Differences can be larger for civil servants than for public employees because of the more far-reaching degree of decentralisation not only in horizontal but also in vertical regard.

Again, any judgement depends on the point of view. On the one hand, these differences are remarkable from a purely national perspective and its former experience. From this position, the indicated transformations are not of incremental but of substantial nature. On the other hand, one could argue from a comparative international perspective that these diverging trends are not overtly surprising in a federal polity with 16 states and more than 10,000 municipalities.

Both federations, DBB as well as DGB, officially complain not only about the growing differences of working conditions but also about the increase of their transaction costs (Williamson, 1985, 1996). Therefore, they repeatedly demand to re-establish the traditional unitary structure of 'equal pay and equal treatment' for all groups and the return to the traditional system of 'pattern setting' with 'pattern following'.³¹ For obvious (financial) reasons, employers and their associations are not willing to agree and to return to the status quo ante. It is to be expected that the present mode of governance, as well as the meanwhile existing differences in employment conditions, will continue to exist without major modifications. The introduced changes are of permanent not of transitory nature.

5.3 Consequences for broader employment relations

The legal option of unilateral imposition instead of bilateral decision making had existed for a long time—but hardly been utilised or even exploited by public employers. Since 2006, however (at least some), states have favoured their broadened opportunities of stricter unilateral determination of remuneration increases to consolidate their budgets, reduce structural public debts³² and persecute their political preferences and implement their goals.

In other words, budgetary policy obviously determines remuneration policy—not vice versa ('Besoldungspolitik nach Kassenlage'). The 'ability to pay' depends on fiscal revenues and resulting budget constraints. Since the refederalisation of legal competences and resulting processes of decentralisation civil servants' working conditions, especially remuneration, have constituted a more frequently exploited source for savings in public budgets. The indicated strategies have at least weakened, in some cases even reversed the traditional system; in a pluralist tradition of thinking, they have shifted the always precarious balance of power between 'both sides of industry'. Different instruments of 'flexibilisation' are easier to implement by unilateral imposition of rights and obligations than by joint regulation in

³¹ In practice, both federations would have internal difficulties because their (especially southern) regional organisations whose members are better off than others would not be interested in a return to a situation with average outcomes.

³² The debt brake (Schuldenbremse) was enshrined in the Basic Law (Art 109) in 2009 as part of the reform of federalism II. From 2020 onwards, it does not allow new public debts and reinstalls the principle of balanced budgets. It creates additional structural constraints for public expenditure, especially for budgets at state level.

CB. However, these measures have taken place without (proportional) reduction of publicly provided services that are essential for citizens. Working conditions have deteriorated.

Recent empirical data show not only an emerging but also a growing heterogeneity of working conditions. Of importance is not, as one could assume from a political science/political economy perspective, the party affiliation or party composition of the government. Interestingly enough, enumeration of civil servants is even lower in states whose governments are led by the Social Democratic Party and/or the Greens than in states with conservative governments. The decisive factor is the financial situation, especially the government debt rate as the percentage of gross domestic product, of individual states (Dose and Wolfes, 2016).

5.4 New legal thresholds

These more recent restrictive strategies of (or at least some) states turned the working conditions of civil servants, especially increases of their remuneration (according to the principle of alimentation/*Alimentationsprinzip*, Article 33 Basic Law) even into a *legally* ‘contested terrain’. Some preliminary verdicts by administrative courts and state constitutional courts could not finally clarify all controversial issues.

In 2015, in a judgement of principle, the Federal Constitutional Court demarcated certain limits and indicated several economic parameters of limitation as lower thresholds of remuneration (Bundesverfassungsgericht, 2015a, 2015b). Among others, the results of CB in the public sector, the development of nominal wage and consumer price indices and internal evaluations of comparable groups within the same and other states have to be taken into consideration when unilateral regulations for civil servants’ remuneration are passed.

In the terminology of the already introduced power resources theory, the existing (limited) level of institutional power of civil servants’ federations has been strengthened by this decision of the highest court. Especially DBB initiated this legal procedure and, in order to push through its demands, stressed the importance of the alimentation principle as integrated part of the ‘traditional principles of the professional civil service’. Once again, the recourse on the Basic Law and the use of legal means were crucial—and again proved to be effective.

Most recent experience illustrates that the exact lower thresholds of this broadly outlined frame of reference are difficult to determine. Despite this judgement of principle by the constitutional court and its attempt to fix objective criteria, some more complaints on remuneration of specific groups in some states are still pending (DGB 2019a)—and verdicts are difficult to predict. Anyhow, the scope of financial manoeuvring available to public employers is nowadays more constrained than before but not completely extinguished. They cannot indefinitely and unlimitedly continue former retrenchment strategies. Some states have tested these limits for specific groups, but, all in all, states nowadays have to be more careful because in case of major deviations, they face additional risks.

5.5 Further consequences (for career groups and labour markets)

Another rarely discussed new difference has to be indicated because it is part of the broader employment relations. The formerly existing uniform law for the structure

of career groups (Laufbahngruppen), hierarchical mechanisms of coordination, was transformed.³³ Nowadays, three groups of slightly fragmented patterns can be distinguished: Northern (coastal) states changed the former homogeneous structures of four career groups to only two and introduced fairly uniform laws.³⁴ Three other states opted at least for parts of this northern model. The other eight states have widely differing regulations (Dose/Reus 2016, similarly Gottschall et al., 2015). Nevertheless, the traditional principles of four hierarchically structured career groups are still recognisable (Dose et al., 2018). All in all, limited trends towards more heterogeneous patterns materialise not only as far as remuneration is concerned but also in the structure of career groups where competition for qualified personnel is supposed to constitute a decisive variable. Therefore, former ‘customs and practices’ of internal labour markets have been changing.

Despite the change of the constitution, the overall extent of competition between states for personnel remains limited (especially to young labour market entrants, border regions and specific qualifications). For civil servants, such as teachers or policemen at state level, formerly existing mobility barriers continue to exist and prevent the realisation of the exit option that was supposed to be widened by measures of federalisation. Mobility *within* states is easier but even more difficult *between* states than under the former unitary system (Dose et al., 2016). Already existing and now sometimes even increasing obstacles are mainly of legal-administrative nature and were underestimated at the beginning. They consist in the increasing fragmentation of career group laws (Laufbahnrecht) at state level, lower regrouping (Eingruppierung) in another state in case of transfers and high information costs due to non-transparent transfer rules (Burmester, 2015; Dose et al., 2018). Interestingly, enough remuneration is of less importance than personnel reasons. Difficulties also exist in the transferability of pension claims.

The public sector is definitely not the ‘model employer’ of protected forms of employment any more (Briken et al., 2014). Since the mid-1990s, the mentioned formerly valid precondition ‘equality of living conditions’ (Article 72 of the Basic Law) has been downgraded to the less favourable concept of ‘equivalence of living conditions’ (‘Gleichwertigkeit der Lebensbedingungen’). Nowadays, public employers operate more than their counterparts in private industry and methods of ‘marketisation’ and ‘flexibilisation’ have been introduced in the public sector and replaced bureaucratic procedures.

Labour markets are nowadays stricter segmented not only *between* but also *within* status groups. Major parts even tend to be dualised between protected ‘insiders’ (among others, civil servants and regular public employees with high levels of employment security) and peripheral ‘outsiders’ (in forms of atypical employment with next to no security provisions) (Keller and Seifert, 2015). Ports of entry are narrow because of the limited number of appointments and, at least in some parts for applicants, difficult to surmount. The formerly dominant co-called normal employment relationship has lost in importance, and an increasing percentage of different atypical forms, first of all fixed-term contracts especially for new appointments, has come into existence

³³ The traditional system consisted of four career groups (ordinary, intermediate, higher intermediate and higher service) with four groups of remuneration and promotion; the entrants level of each career group required a specific level of formal education. Recent changes include among others extended wait times for promotion, less opportunities for career progression and changed categories of job classification.

³⁴ The potential range is one to four groups.

(Hohendanner, 2019; Hohendanner et al., 2016). The always existing gap between stable and instable segments (Henneberger, 1997) has widened towards a two-tier workforce. The ‘flexibility’ of employment has increased, and there are nowadays more similarities with labour markets in private industry (Keller 2010). In the public sector, external forms of flexibility (such as agency work, service contracts, outsourcing or mini-jobs/marginal employment) are less important than internal ones. Fixed-term contracts constitute the only exception.

5.6 Consequences for the organisations of interest representation

The specific form of federalisation and decentralisation of rights and competences (from the federal to the state level) has the consequence that there are 17 parliamentary decisions to be made instead of one and that they are (at least legally) independent of each other. From both federations’ perspective, this structural change requires additional resources because talks take place not only at federal level (for its civil servants) but also at individual state level (for their civil servants). In technical terms, *ex ante* (for drafting, negotiating and safeguarding) as well as *ex post* transaction costs (for maladaptation and adjustment) (Williamson, 1985, 1996) have increased on the employees’ side for both forms of interest representation but especially for civil servants.

For both civil servants’ federations, transaction costs have even duplicated because multiple decisions have to be taken at state level. How do civil servants’ associations (DGB but especially DBB) that were accustomed to centralised decision making cope with this major change of legal–institutional preconditions? The present legal framework means that their organisations at state level (DBB: Landesbünde, DGB: Landesbezirke) need more support from the federal level and additional resources, especially personnel with specific expertise. The reason is that they now have to make use of their legally guaranteed rights of hearings and consultation at individual state level and are in charge of all lobbying activities (and, together with staff councils also the later supervision of implementation procedures).³⁵ Furthermore, both federations face the task to provide additional but scarce resources for the state level and to act as information brokers for their members. The changes of legal competence create more problems for DBB because its resources are traditionally concentrated at the central level. DGB districts are traditionally rather autonomous actors with differing interests whose activities are difficult to synchronise by a central authority; vertical or horizontal coordination does not take place.

6 OUTLOOK: THREE FORTHCOMING CHALLENGES

All public employers face major future challenges as far as their employment relations are concerned. If they are not coped with the states’ ability to act and to provide the public infrastructure as well as necessary public services, will be at stake.

After significant retrenchments throughout the 1990s and more moderate ones in the early 2000s (all in all, by about one third from 6.7 to 4.5 million), there is

³⁵ The revised ‘Guideline on work for civil servants of DGB’ (Richtlinie Beamtenarbeit des DGB) therefore demands: ‘At district level, structures must be created that enable effective representation of the civil servants in every state. The district board decides on the structure, composition and design of the commissions... The Commissions are both a working and advisory body. Existing information and network structures in the DGB and in the trade unions must make existing competences usable for all and avoid duplication of work.’ (DGB-Bundesvorstand, 2010: 16) (own translation)

nowadays a widely accepted growing demand for various public services. In more recent years or, to be more precise, since 2008, this demand has initiated moderate annual increases in personnel in some selected labour market segments of high political priority (first of all, preschool education/Kindergarten at municipal level, public security and order/police, and universities at state level) (Altis, 2018). Due to these formerly rather unexpected countervailing tendencies (Schulten/Seikel, 2018 for examples), the present overall number of employees is 4.8 million. The mentioned long-term downward trend was stopped but not ultimately reversed. In international comparative perspective, the public sector is still rather small (with limited overall expenses) and indicates the continued existence of a 'lean' state (European Commission, 2013). Stagnation or future (slight) increases depending on the additional request to be politically articulated by citizens. Without doubt, urgent future demand exists in specific segments (such as Kindergarten, financial administration, police and education (Vesper, 2016 for details).

The *age structure* of public sector employees is rather unbalanced. The average age (almost 45 years) is higher than in private industry. Therefore, replacements are necessary (1.2 million or almost 27 per cent in the years 2017–2027 compared to less than 20 per cent in private industry) (DGB, 2018, 2019b). Necessary substitutes will be difficult to recruit, especially in times of relatively low unemployment rates and, due to demographic change, smaller cohorts entering the labour market.³⁶ This urgent problem is even more complex to solve for specific groups in high general demand (such as teachers, especially for elementary schools) as well as in competition with private industry for qualified personnel (such as information technology experts). The early anticipation of forthcoming human resource problems and the provision of (more) decent working conditions (not only salaries and remuneration but also workloads such as teaching hours and work intensity) could, in combination with higher expenses, constitute realistic remedies. In any case, the consequences of former underinvestment in human capital will not disappear.

The progress of *digitalisation* is not at all limited to private industry; 'e-government' has turned into a frequently quoted catchword. In the German public sector, these processes are not very advanced and because the fragmented competences at different levels remind of 'muddling through' instead of the implementation of consistent concepts. Public attention has focused on the consequences for citizens. However, progress in these long-term developments need not only more continuous further training of present employees and changes in the organisation of work but also additional highly qualified experts who are difficult to recruit because of scarce qualification and competition with private industry. Coordination measures are difficult to organise in a federal polity, but a coherent digital strategy for human resource management is urgently needed.

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³⁶ It is justified to argue that more favourable opportunities were missed in the past.

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