

Unemployment benefit governance, trade unions and outsider protection in conservative welfare states

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Daniel Clegg

School of Social and Political Science, University of Edinburgh, UK

Elke Heins

School of Social and Political Science, University of Edinburgh, UK

Philip Rathgeb

School of Social and Political Science, University of Edinburgh, UK

Summary

This article explores the relationship between trade union governance roles in unemployment benefit systems, their power resources and their capacity to counteract liberalising and dualising trends in the labour market in conservative welfare states with compulsory unemployment insurance. Against received wisdom, this article argues that in the 21st century trade unions in continental Europe have generally sought to combat the dualism to which their welfare states and labour markets are institutionally susceptible. In this context, a role in the operation of unemployment benefit systems and related forms of institutional power could help unions to attain the enhanced outsider protection they seek. But different modes of union involvement in public policy produce different levels of institutional power, and help to condition its impact on policy development over time. This article illustrates these points with a comparison of the recent development of labour market policy and regulation in Austria, France and Germany.

Résumé

Cet article explore la relation entre les rôles de gouvernance exercés par les syndicats dans les systèmes d'indemnisation du chômage, leurs ressources en termes de pouvoir et leur capacité à combattre les tendances à la libéralisation et à la dualisation du marché du travail dans les États-providence conservateurs dotés d'une assurance chômage obligatoire. Contrairement aux idées reçues, cet article fait valoir qu'au 21^e siècle, en Europe continentale, les syndicats

Corresponding author:

Daniel Clegg, School of Social and Political Science, University of Edinburgh, Chrystal Macmillan Building, 15a George Square, Edinburgh, EH8 9LD, UK.

Email: daniel.clegg@ed.ac.uk

ont généralement cherché à combattre le dualisme auquel sont exposés leurs États-providence et leurs marchés du travail sur le plan institutionnel. Dans ce contexte, les syndicats pourraient s'appuyer sur le fait de jouer un rôle dans le fonctionnement des systèmes d'allocations de chômage et les formes de pouvoir institutionnel qui y sont liées pour les aider à obtenir la protection renforcée qu'ils recherchent pour les « outsiders ». Mais les différents modes d'implication des syndicats dans les politiques publiques génèrent des niveaux différents de pouvoir institutionnel et contribuent à conditionner leur impact sur l'élaboration des politiques au fil du temps. Cet article illustre ces différents points au moyen d'une comparaison de l'évolution récente de la politique et de la réglementation du marché du travail en Autriche, en France et en Allemagne.

Zusammenfassung

Der vorliegende Artikel untersucht die Beziehungen zwischen der gewerkschaftlichen Verwaltung der Arbeitslosenversicherung, den damit verbundenen Machtressourcen und der Fähigkeit, Dualisierungs- und Liberalisierungstrends in den Arbeitsmärkten konservativer Wohlfahrtsstaaten zu konterkarieren, in denen es eine Pflichtversicherung gegen Arbeitslosigkeit gibt. Entgegen der herkömmlichen Lesart argumentiert dieser Artikel, dass die Gewerkschaften in Kontinentaleuropa im 21. Jahrhundert im Allgemeinen versucht haben, die Dualisierung zu bekämpfen, für die ihre Wohlfahrtsstaaten und Arbeitsmärkte institutionell anfällig sind. In diesem Kontext könnten eine Rolle in der Verwaltung der Arbeitslosenversicherung und damit verbundene Formen institutioneller Macht den Gewerkschaften dabei helfen, den verstärkten Schutz von Outsidern zu erreichen, um den es ihnen geht. Allerdings führen unterschiedliche Arten der gewerkschaftlichen Beteiligung an öffentlicher Politik zu unterschiedlichen Ausprägungen institutioneller Macht und damit der Fähigkeit, die politische Entwicklung zu beeinflussen. Der vorliegende Artikel beschreibt diese Punkte anhand eines Vergleichs aktueller Entwicklungen der Arbeitsmarktpolitik und -regulierung in Österreich, Frankreich und Deutschland.

Keywords

Trade unions, unemployment insurance, social governance, corporatism, dualisation, conservative welfare state

Introduction

Trade unions have historically played a significant role in the operation of unemployment benefit systems, not only in the voluntary state-subsidised Ghent systems found in most Scandinavian countries, but also in the 'conservative' or Bismarckian welfare states of continental western Europe. In these welfare states, unemployment insurance is compulsory, and unions' administrative and/or regulatory role alongside the state and/or employer organisations generates no particular incentives for trade union membership. It does, however, provide unions with an institutionalised voice in policy-making, sometimes nested within wider neo-corporatist arrangements, but also in their absence. This article explores the implications of these 'social governance' arrangements for union policy preferences, power resources and influence over policy development in the age of dualisation and liberalisation.

Much contemporary scholarship argues that, because of their low density and representative bias towards securely employed 'insiders', unions in continental Europe are only mildly opposed to or even supportive of dualisation. Their institutionalised roles in public policy are then seen to

lead to the capture of policy-making by the pro-dualisation cross-class coalition that insider-oriented unions forge with sections of business. We suggest, by contrast, that in the 21st century there are reasons to expect unions to want to counteract dualisation, even in continental Europe. In this context, their institutionalised policy roles should instead be seen as forms of institutional power that might help to offset – and possibly even reverse – their declining associational power and increase the capacity of organised labour to push for public policies that combat or at least mitigate dualisation. This power, however, depends on the precise mode of social governance, and is often conditioned by the incentives and capacity of elected governments to bypass established policy-making institutions.

The discussion is organised in three main sections. First, we review the existing scholarship on the nexus between union involvement in the operation of unemployment benefits, union power and preferences and resistance to liberalisation and dualisation in order to flesh out the arguments sketched above. Section 2 then introduces the three conservative welfare states in our comparison – Austria, France and Germany – describing the different roles unions in these countries historically play in unemployment benefit systems and how they are related to industrial relations structures and wider patterns of union involvement in social and economic policy. Section 3 then uses a necessarily selective comparison of major developments in unemployment benefits and other labour market policies across the three countries in the past two decades to illustrate the influence and limits of union institutional power in counteracting dualisation. Although the main focus of the article is on routine policy-making over a longer period, our conclusion briefly discusses the impact of the COVID-19 pandemic on union institutional power and labour market policy in our three cases.

Union preferences, labour power and unemployment benefit systems

Existing scholarship on the relationship between the set-up of unemployment benefit systems and the preferences and power resources of trade unions has often focused on the Ghent systems found in a number of Scandinavian countries (for example, Rothstein, 1992; Scruggs, 2002). Here unemployment insurance is voluntary, heavily subsidised by the state and administered by trade union-affiliated funds. These institutional features combine to create strong incentives for joining trade unions, especially among labour market groups that are most exposed to the risk of unemployment (for a detailed discussion, see Clasen and Viebrock, 2008; Lindellee and Berglund, 2022). Most obviously this boosts trade union density, the classic measure of trade union power resources (Korpi, 1983). Equally important in the context of growing attention to new divides in the labour market between so-called insiders and outsiders (Emmenegger et al., 2012; Rueda, 2007), higher union density leads automatically to a larger share of outsiders in union memberships, making unions more inclusive and attuned to outsider concerns (Gordon, 2015: 89). Such comprehensive union representation is, according to one very influential account, a crucial prerequisite for decent social and employment protection of outsiders (Thelen, 2014).

With lower levels of density than their Scandinavian counterparts and a representational bias towards securely employed insiders (Ebbinghaus, 2006), trade unions in continental European countries are rarely seen as especially sensitive to outsider preoccupations. Should we accept that the interests of insiders and outsiders are not merely different but actually conflicting (Rueda, 2007), continental unions may even be argued to have incentives to pursue explicitly insider-oriented policies. This assumption lies behind the claim that in conservative welfare states unions have often acted in concert with sections of business to ‘institutionalise dualism’ by maintaining or reinforcing existing social and employment protections, while simultaneously restricting their

coverage to a gradually shrinking core of insiders (Palier and Thelen, 2010; Thelen, 2014). Although this account is strongly underpinned by a competitiveness-oriented producer-group-politics logic, key features of ideal-typical Bismarckian welfare states – such as contributory financing and access – can also be argued to create an institutional predisposition to this particular variety of liberalising policy change, even through ‘drift’ (Clegg, 2007; Palier, 2010).¹

Trade union involvement in the administration and sometimes regulation of unemployment and other social security benefits, in partnership with the state and/or employer representatives, is another characteristic institutional feature of conservative welfare states. Ebbinghaus (2010) uses the umbrella term ‘social governance’ to describe practices that have varied historical origins and take quite distinctive forms from country to country, as we also illustrate below. The turn-of-the-century literature on the limited reform capacity of what were portrayed as ‘frozen’ conservative welfare states nonetheless tended to emphasise a common vulnerability of these forms of ‘welfare corporatism’ to supposed capture by trade unions and employer representatives, who could use their prerogatives to tailor policy development to the concerns of their core constituencies, even when this went against ‘the public interest’ (Hemerijck and Vail, 2006; Streeck, 2003). The idea that social governance arrangements allow the social insurance system to serve as an ‘institutionalised support system for the social partners’ (Hemerijck et al., 2000: 107) is also suggested by the strong emphasis on institutional complementarities between industrial relations and social policy in the producer-group-politics literature on dualisation (Palier and Thelen, 2010). Directly contrary to the belief that unions’ role in unemployment benefit administration helps to counteract dualistic tendencies in Scandinavian social democratic welfare states, therefore, unions’ involvement in the operation of unemployment benefit systems is widely perceived to facilitate them in the conservative welfare states of continental Europe.

A first important limitation of this perspective lies in its underlying assumptions about the social and labour market policy preferences of continental trade unions in the 21st century. One problem is that the interests of insiders and outsiders are not necessarily so opposed. Where permanent employees face wage competition from a growing outsider fringe in the labour market, even unions that represent mainly insiders will have strong incentives to combat or mitigate dualisation (Keune, 2015; Weisstanner, 2020). Vlandas (2013) argues that this will be especially the case in countries such as France, with weak wage coordination and general skills, but negative consequences for insiders from the growth of precarious employment have been well documented also in Germany, the archetypal specific skills economy (Eichhorst and Marx, 2011). Marx and Starke (2017) suggest that negative feedback from earlier rounds of dualising reforms makes insider unions more supportive of better protection of outsiders because of dualisation’s material consequences for their members, but also because of the ideological tensions generated by its development. This points to a further obvious problem with the conventional perspective, namely that union preference formation is not driven only by material considerations. As Streeck (2005: 269) points out, unions want to be regarded as representatives ‘not just of their members, but of all workers in their industry or society’. The so-called ‘union revitalisation’ literature (for example, Baccaro et al., 2003) has shown how both organisational security and ideological motivations lie behind the attempts of weak unions to integrate and represent unorganised sections of the workforce. All in all, then, there are good grounds to expect unions in the 21st century to have a considerably more inclusive representational outlook than is often assumed (Rathgeb, 2018).

From this perspective, there is little reason to think that union involvement in unemployment benefit systems and any related influence on policy-making in conservative welfare states is a

1 Policy drift refers to a situation where the maintenance or reinforcement of existing institutions in a changing socio-economic context results in a loss of regulatory capacity (Streeck and Thelen, 2005).

driver of dualisation, and every reason to believe it can, on the contrary, be a bulwark against it (Bethhäuser, 2017; Seeleib-Kaiser et al., 2011). Where unions have limited associational power in the form of membership density, such forms of institutional power can be especially central to their capacity to influence reform trajectories (Gordon, 2015). Certainly, unions' attachment to or even reliance on the material (money, jobs) and symbolic (authority, legitimacy) resources they may derive from participating in bipartite or tripartite social governance institutions and other social partnership arrangements can in some circumstances lead them to acquiesce to reforms they would otherwise oppose (Clegg, 2012). Compromises and trade-offs are inherent in consensus-based policy-making, and where unions are involved in concertation on social and labour market policy they have to make them, too, especially in an age of 'permanent austerity'. Ultimately the key question is whether distributive choices are more likely to favour labour market outsiders when unions are involved in negotiating policy reforms, on the one hand, or when the union voice is disregarded or social governance institutions are bypassed altogether by unilateral government action, on the other.

This highlights a second limitation in the producer-group-politics accounts of dualisation in conservative welfare states, related to the role of the state. Clearer-cut cases of dualisation are often presented as resulting from a 'weak state' unable to force encompassing deals on economic actors (Thelen, 2014). One key problem with this is the implication that better outsider protection is actually in the interest of the state or of the elected government that has political control of the state. The basis for this seems relatively weak, however. On the contrary, there are good reasons for thinking that, with intensifying pressures for economic liberalisation, political parties of all partisan stripes will today pursue wage differentiation and labour market flexibility to stimulate job creation (Baccaro and Howell, 2017; Rathgeb, 2018). Another, related problem is the exaggeration of the social partners' institutionalised capacity to autonomously influence social and labour market policy-making. While social partners do have constitutionally guaranteed autonomy over *wage bargaining* in some continental European countries, social governance arrangements in *social and labour market policy* are always a case of the state 'sharing public space' (Crouch, 1986) with economic actors. As we discuss below, while governments' prerogatives in social governance arrangements do vary across countries, the state is hardly institutionally 'weak' in social and labour market policy-making in conservative welfare states, and is often the structurally dominant actor. While unions' historical roles in the operation of unemployment benefit systems in conservative welfare states enhance their legitimacy to participate in unemployment benefit policy-making, and in some cases make it plausible to present strong state involvement as illegitimate, in principle governments can always choose to exercise their ultimate (if sometimes latent) authority in this area. This choice will probably be shaped by political considerations, such as the extent of problem pressures and governments' strength and cohesiveness. For the cases of Austria, France and Germany, we show below that social partner involvement in policy-making has varied across time, as well as across labour policy fields, and that it is when unions have been sidelined that policy developments most unfavourable for outsiders have often been adopted.

Unemployment benefit governance in context: Austria, France and Germany

Austria, France and Germany are unambiguously conservative welfare states, in which social security is mainly employment-based and historically oriented to preserving the status of wage-earners. The countries have extremely different patterns of labour organisation and mobilisation, however, as well as highly dissimilar traditions of involving trade unions and employer associations in government decision-making on social and economic policy. Union institutional power in each

country's unemployment benefit system must be understood in these different political economy and industrial relations contexts, although importantly it cannot simply be read off from them.

Indexes of corporatism offer a common way of summarising dominant patterns of interaction between economic interests and the state in comparative perspective. As Jahn (2016) emphasises, corporatism is a contested and complex concept, related to questions of both structure and function, and with observable implications at and between different levels (firm, sectoral, national) in a given political economy. From Jahn's comparative analysis of relevant indicators covering the period 1960 to 2010, Austria nonetheless emerges as comfortably the most corporatist country in the developed world, while France by contrast appears to be one of the least, ranked behind every country in Scandinavia, western and southern Europe. Germany comes out as the sixth most corporatist country, with levels roughly between those of our two other cases.

Space constraints preclude more than a very schematic description of the institutional features of these three political economies and industrial relations systems. Austrian corporatism rests on traditionally close institutional and personal ties between the representatives of employers and employees and the two historically dominant political parties. The unique chamber system, with its compulsory membership, ensures encompassing representation of business and labour interests. This is further reinforced by the high centralisation of interest organisations, including the Austrian Trade Union Confederation (ÖGB). Although labour representation is formally unitary also in Germany, cross-sectoral divides have always been more prominent in the German Trade Union Confederation (DGB) than in the ÖGB (Behrens and Pekarek, 2021; Heinisch, 2000). In general, economic governance is more sectoral in Germany, with the constitutionally protected autonomy of collective bargaining as its cornerstone, along with the system of strong, democratically elected works councils with wide co-decision powers at firm level. As in Austria, traditionally strong personal and career links between the political parties and economic interest organisations have facilitated coordination between corporatist and legislative arenas, though these links have greatly weakened over time (Trampusch, 2005). More similar to France, explicit tripartite concertation at national level occurs only sporadically and in non-binding forms. France is usually seen as having a statist mode of economic regulation that is the very antithesis of corporatism (Levy, 1999; Vail, 2004). The wide-ranging intervention of the French state in the economy – through devices such as the semi-automatic extension of collective agreements – are meant to compensate for the chronic weakness of French labour in membership terms, although they arguably also exacerbate it. French unions are also divided on confessional and ideological lines, with no fewer than five confederations recognised as representative (Mouriaux, 2013). The common portrayal of French state–society relations as a model in which 'the state acts and society reacts' (Schmidt, 1999) simplifies a more complex pattern of co-production of norms through collective negotiation and state action in the field of employment since the late 1950s (Freyssinet, 2010). However, the general legitimacy of social partner participation in public policy decision-making is undoubtedly far lower in France than either of the other two cases.

How are the historical patterns of union involvement in unemployment benefit systems related to these wider institutional contexts? Surprisingly, it is in highly corporatist Austria that the social partners' role in unemployment benefit governance was least well institutionalised in the immediate post-war years. Though unemployment insurance had been governed by bipartite committees from its introduction in 1920, the system of self-administration had been constrained under the Austro-fascist regime in 1935 (Tálos, 2013: 373; Tálos, 2020: 43) and ended when it was placed under direct control of the government by the Nazis in 1938 (Weishaupt, 2011: 80). The post-war government maintained what Weishaupt terms a 'state-led' system, although it introduced an advisory function for the social partners at all levels, a compromise between the government's desire to retain a strong role in this area to support the rebuilding of the Austrian economy and the

reintegration of soldiers and union demands for the reinstatement of their earlier prerogatives (Soentken and Weishaupt, 2014; Weishaupt, 2011: 96). It was only in the mid-1990s that the social partners obtained enhanced formal institutional powers when a tripartite Federal Employment Service (Arbeitsmarktservice; AMS) was created, independent of direct ministerial control (Soentken and Weishaupt, 2014). The social partners gained representation on the AMS governing boards at federal, regional and provincial levels, reinforcing the legitimacy of union involvement in policy development not only of unemployment benefits (both unemployment insurance and unemployment assistance²), but also active labour market policies (ALMPs), which are also managed by the AMS (Allinger, 2012).

The traditional institutional role of the German unions in the unemployment benefit system has many similarities with Austria. As in Austria, on the principle of self-administration the social partners participated in the governance of unemployment insurance from its inception in the inter-war years until this arrangement was ended by the Nazis. Unlike in Austria, a strong governance role for the social partners was swiftly reinstated after the Second World War (Weishaupt, 2011: 93). The German Federal Employment Agency (Bundesagentur für Arbeit, BA) is a tripartite body in which the state (specifically, representatives of the different legislative levels in the German polity) is represented alongside the social partners in governance structures and which has responsibility over both unemployment benefits and ALMPs. The social partners tried to remove the state representatives from participation in the Federal Employment Agency in 1952, but tripartism was defended by the Federal government because of the Agency's public functions and the contribution of public money to its funding (Trampusch, 2002). The budget, bylaws and directives of the Federal Employment Agency need to be agreed by the Federal government, which can implement policy changes even against the majority view of the Federal Employment Agency's administrative board. Ultimately, it is Parliament – and thus political parties – that has most influence on labour market policy (Lehbruch, 2003: 159). With the Hartz reforms of the early 2000s (see below), the social partners' decision-making powers in the Federal Employment Agency were further reduced as part of the modernisation of the public employment service. Unions also lost any institutional influence over the newly created Unemployment Benefit II, which is publicly financed and not governed by the tripartite Federal Employment Agency (Klenk, 2009).

Paradoxically, it is in statist France that trade unions' institutional power in the unemployment benefit system has been greatest. When compulsory unemployment insurance was introduced in France in 1958 it was founded on a national collective agreement between the social partners that was validated by the state to apply across the French economy (Clegg, 2011; Freyssinet, 2010). Unemployment insurance was intended to be financed entirely from employer and employee contributions, which has been important, as it enables the social partners to portray government interference in its functioning as illegitimate. Contribution and benefit levels are fixed in collective agreements that are renegotiated approximately every three years. The formal role of the state is limited to approving them, which happens without the involvement of Parliament. The social partners' role in French unemployment insurance is therefore genuinely regulatory, and not merely administrative. This distinctive governance mode – known as *paritarisme* – can be seen as a neo-corporatist 'fragment' in an otherwise hostile institutional environment (Duclos and Mériaux, 1998). The functional reach of the social partners' regulatory powers are, however, limited. ALMPs

2 In both Austria (*Notstandshilfe*) and France (*Allocation de solidarité spécifique*), an unemployment assistance scheme forms a second tier of unemployment protection for those who have exhausted their entitlement to unemployment insurance benefits (and, in France, meet the other contributory requirements). It is means-tested but distinct from general social assistance. This tier of unemployment protection was removed in Germany in the Hartz reforms (see below).

and tax-funded unemployment assistance are governed directly by the state. Furthermore, French governments have brandished the threat of the nationalisation (*étatisation*) of the unemployment insurance system with increasing regularity in recent years. In 2008 the creation of a new public employment service (Pôle Emploi) led to the dissolution of the unemployment insurance system's network of territorial and sectoral bipartite administrative offices (Associations pour l'emploi dans l'industrie et le commerce; ASSEDIC), depriving the social partners of operational prerogatives and undermining their control of the labour market. Despite threats, however, the same reform stopped short of abolishing the national-level bipartite institution (Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce; UNEDIC) through which the social partners regulate unemployment insurance (Pillon and Vivès, 2016).

To summarise, despite the very diverse institutional structures of their political economies, trade unions have long been closely involved in the operation of unemployment benefit systems in Austria, France and Germany, although their ability to shape policy development through social governance arrangements varies. To follow the analytical distinction proposed by Ebbinghaus (2010), patterns of social governance in unemployment benefits in the three countries seem to correspond to *self-administration*, grounded in a principle of delegation of public authority in Austria and Germany, and to *self-regulation*, grounded more in notions of subsidiarity, in France. Despite a more statist policy-making environment, and until some recent institutional changes discussed below, the social partners in France have enjoyed some genuine regulatory autonomy from the state in the sphere of unemployment insurance. The institutional power of unions in the Austrian and German political economies is wider-ranging, but their influence over unemployment benefits is more conditional on the willingness and ability of the state to assert its recognised primacy over policy-making in this area.

Institutional union power and outsider protection

This section briefly discusses some major reforms of unemployment benefits and other labour market policies in the three cases. Our objective is to shed light on the role and limits of union institutional power in helping to counteract dualising trends in conservative welfare states. While the main focus is on unemployment benefits, we also discuss reforms in related policy fields when they help to illustrate the importance of union institutional power, or its absence. Though any enhancement of unemployment benefits (or increased expenditure on ALMPs) is sometimes considered as representing increased 'outsider effort' (Gordon, 2015), we focus especially on reforms that improve the social protection of those in, or those who have entered unemployment from, precarious employment, which helps to underscore our argument that trade unions in conservative welfare states also push for improved social protection of those who deviate from the standard employment biography of core workers.

Austria

The basic story of Austria's 'smoothed dualisation' and the prominent role played by Austrian corporatism in this outcome is by now well-known (Betthäuser, 2017; Obinger et al., 2012; Rathgeb, 2017). In the 1990s, when many continental European countries began reining in social spending in the run-up to Economic and Monetary Union, Austria's approach to the recalibration of its welfare system stood out for a balanced approach to the social protection of insiders and outsiders (Obinger et al., 2012: 181–182). In unemployment benefits this entailed significant enhancements to benefit access for outsiders, including the easing of access conditions for under-25s and ending the discrimination against women with working partners in unemployment

assistance. At the same time, there were some moderate cuts to unemployment insurance replacement rates and an increasing emphasis on activation, including through stricter benefit sanctions. With Grand Coalition governments – consisting of the centre-right ÖVP (Österreichische Volkspartei) and the centre-left SPÖ (Sozialdemokratische Partei Österreichs) – in office, these reforms were negotiated through traditional corporatist channels, and labour interest organisations (ÖGB and the Chamber of Labour) were the strongest advocates of the extension of social protection to atypical workers (Obinger et al., 2012). A similar pattern prevailed in the next period of Grand Coalition that began after the 2006 elections, when corporatist policy-making flourished again because of the return to office of the SPÖ, but also the coalition partners' need to rely on the social partners' problem-solving capacity when they were unable to agree on reforms in key areas (Rathgeb, 2017). In return for concessions on the availability requirements of the unemployed, the ÖGB and the Chamber of Labour obtained notable enhancements to unemployment insurance for outsiders, including enhanced coverage through the inclusion of quasi-freelancers and reduced contribution rates for low earners (Rathgeb, 2017).

In the two periods (2000–2003 and 2017–2019) in which the centre-right ÖVP governed in coalition with the radical right FPÖ (Freiheitliche Partei Österreichs), however, the government's preference was to bypass corporatist policy-making and weaken labour interest organisations (Rathgeb and Klitgaard, 2021). Where this strategy was possible, it was able to impose uncompensated cuts in unemployment insurance, as in 2000 when replacement rates were reduced and the qualifying period was extended. When this governing coalition was unable to reach agreement on unilateral reforms they were reluctantly forced to rely on corporatist actors, and then more balanced outcomes again resulted. This was the case with the severance pay reform of 2001. Following long negotiations between the social partners and in return for a reduction in employer contributions the ÖGB obtained a homogenisation of severance pay across contract durations and types, in favour of non-standard workers and against dualisation trends (Rathgeb, 2018: 54–88).

As the above example shows, the unions' institutional power in Austria has policy impacts that range far beyond unemployment benefits alone, but it is conditional on governments' political choice to share policy-making authority. As such, in periods in which governments have relied on corporatist actors, enhancements to protection for outsiders have taken place in a number of policy fields. As Betthäuser (2017) has shown, for example, labour interest organisations were strongly involved in the reform process that led eventually to the introduction of a national social assistance scheme, with improved benefit levels, in 2010. Inversely, when the most recent ÖVP-FPÖ coalition was able to agree on chauvinist welfare reforms to family benefits and social assistance that tightened eligibility conditions for foreign workers, refugees and migrants, the unions were unable to prevent them, despite their opposition (Rathgeb and Gruber-Risak, 2021).

It is therefore from the frequent use of wider forms of corporatist policy-making – social partner participation in reform commissions, pre-parliamentary scrutiny of draft legislation – that unions derive their institutional power in Austria rather than from their role in the unemployment benefit system as such. When other forms of corporatist policy-making are bypassed, their institutional involvement in AMS gives unions no veto power. But that social governance arrangements are nonetheless an important part of the wider picture of union institutional power is proved by the attempts of ÖVP-FPÖ coalition governments to restrict the unions' prerogatives in social security institutions whenever they are in office (Soentken and Weishaupt, 2014; Rathgeb and Klitgaard, 2021).

France

Unemployment benefits in France are often seen as an archetypal case of dualisation, notably with reference to the 'reactionary recalibrations' of the 1980s and 1990s that first instituted and then

deepened dualism (Clegg, 2007). In the new millennium, however, improvements in the protection of precarious workers has been a consistent demand of the French trade unions in unemployment insurance negotiations, and on a number of occasions they have been able to broker deals that have achieved this. Far from the exclusive system that is often portrayed, France today has some of the least restrictive unemployment insurance eligibility criteria in the OECD (OECD, 2020: 132). And while in 2016 contributions paid by temporary workers represented only 12 per cent of the system's revenues, benefits for those who had entered unemployment at the end of a fixed-term contract represented 40 per cent of all unemployment insurance expenditure (Freyssinet, 2019: 12). The subsidisation of precarious employment by the unemployment insurance system is one of the reasons why working-age poverty has not increased more in France despite labour market liberalisation (Azkenazy and Palier, 2018).

A number of unemployment insurance reforms particularly illustrate the trade unions' ability to use their regulatory role in unemployment insurance to enhance protection for outsiders (for further detail, see Clegg, 2021). In 2008, with a conservative government in office, the social partners negotiated a new relationship between unemployment insurance contribution periods and benefit durations, which would henceforth be related on a one-to-one basis, up to a maximum benefit duration of 24 months (36 for the over 50s). Unions obtained their demand that the minimum period of affiliation (that is, work) be reduced to only four months in a 28-month reference period. While the pseudo-actuarial logic of the one-to-one model could be seen as weakening social insurance principles (Grégoire et al., 2020), this reform nonetheless implied a redistribution of benefit spending from workers with longer contribution records to the precariously employed (Freyssinet, 2010: 26). The gradual liberalisation across successive reforms of a measure allowing workers to cumulate earned unemployment insurance entitlements with wages in a new job also repurposed unemployment insurance as an in-work benefit for the precariously employed (Pillon and Vivès, 2016). In 2014, this time with a Socialist government in office, the social partners also negotiated a so-called 'rechargeable rights' mechanism that allows unemployed people re-entering work to conserve any unused benefit entitlement to cumulate with entitlements arising from the new employment spell, with the minimum period of work required to trigger new entitlement fixed at only 104 hours. While this reform was supported by employers as a work incentive measure, for the unions the aim was to enhance access to unemployment insurance for workers who frequently alternate spells of work and unemployment. In a package deal, the costly measure was funded in part by an increase in waiting periods for unemployment benefits for those with large severance payments, a measure that negatively affected insiders.

The French government came under intense pressure from the European Commission to address its large unemployment insurance deficit in the middle of the last decade (Clegg, 2022). Although the social partners' failure to reach agreement on reform in 2016 gave the Socialist government an opportunity to impose changes unilaterally, the risks of imposing cuts in a sensitive area usually governed by consensus led them instead simply to roll over the existing collective agreement until new negotiations could take place, allowing the unemployment insurance deficit to swell. When Emmanuel Macron was elected President in 2017, however, he had a strategy to increase his leverage at European level by imposing tough reforms domestically, and made his intention to bypass the social partners even in unemployment insurance reform very clear (Clegg, 2022). A legislative change empowered the government to fix the parameters of future unemployment insurance negotiations, while employee contributions were replaced by general tax revenues in the funding of the system, further increasing the legitimacy of state intervention. After demands from the government for huge cost savings ensured the failure of another round of negotiations between the social partners, the government stepped in to impose an unemployment insurance reform unilaterally for the first time in 40 years. While the changes did bring enhanced benefit rights for specific groups,

notably job quitters and – under certain conditions – the self-employed, these had an estimated annual cost of €440m compared with the projected €2.5bn savings from benefit cuts, the most significant of which will fall on precarious workers (Freyssinet, 2019: 8–9). With the institutionalised union voice (temporarily?) sidelined, the outcome for outsiders was markedly worse.

This conclusion is reinforced by developments in fields in which the unions have less entrenched institutional power than the unemployment insurance system, such as employment protection. Even when the social partners have been empowered to negotiate on labour law reform, the unions have had limited power to resist liberalisation. Indeed, the balance of power in collective negotiations on policy issues in which the French state has historically been seen as competent is shaped entirely by the negotiating parties' anticipation of what the incumbent government in office would do if negotiations break down (Amable, 2006). Thus, in a negotiation on labour market modernisation in 2008, with a conservative government in office, the employers would make only symbolic concessions and the unions were forced to accept significant liberalisation of both fixed-term and open-ended employment contracts. In the early years of the subsequent Socialist Presidency a similar national negotiation on 'secure employment' did result in some re-regulation of atypical work, notably the introduction of minimum hours for part-time work. When the pressure from the European Commission increased in the second half of the Presidential term, however, the Socialist government dispensed altogether with asking the social partners to negotiate, and imposed significant liberalisation unilaterally. Labour law reforms were adopted by decree in the first months of the Macron Presidency, too, and opened the door to substantial liberalisation of temporary work by decentralising regulation of key parameters to sectoral bargaining.

Germany

The German case illustrates how an absence of institutional power in national-level policy makes it difficult for unions to resist liberalising reforms in the face of determined government action. Lacking both traditions of shaping policy development through formal channels of macro-corporatist concertation (as in Austria) or any genuine regulatory autonomy from the state in unemployment insurance policy (as in France), the German unions were unable to resist a profound restructuring of the unemployment benefit system in the early-to-mid 2000s. The road to these reforms was long and their politics complex (see Hassel and Schiller, 2010). For present purposes it suffices to say that in a context of acute pressures linked to high unemployment, and after attempts at tripartite concertation had failed, the coalition led by Chancellor Gerhard Schröder between the centre-left SPD (Sozialdemokratische Partei Deutschlands) and the Green Party decided – despite obvious political risks – to unilaterally force through a series of liberalising reforms. This was done by de facto enlarging the mandate of an expert Commission – named after its head Peter Hartz, a Volkswagen executive and resulting in the so-called 'Hartz reforms' – that was tasked with considering reforms to the public employment service.

With the Hartz IV reforms, the maximum period of receiving unemployment insurance was reduced from 32 to 12 months (18 months for the older unemployed), while the time-unlimited unemployment assistance tier was abolished altogether and combined with the general means-tested social assistance scheme. The Hartz reforms are often seen as an instance of unemployment benefit dualisation, although as Manow (2020: 121–126) stresses strongly, they were in reality a major attack on insider interests, while also improving benefits for some outsiders, notably former social assistance claimants (see also Clasen and Goerne, 2011). Overall, the reforms changed the unemployment benefit system from indefinite status maintenance to temporary protection of living standards, followed by much lower benefits with strict conditions and means-testing attached. If these reforms are often associated with dualism, it is probably because, in combination with other

liberalising policy reforms introduced in this period, they nurtured the development of a low-wage sector. Between 2005 and 2015 in-work poverty doubled in Germany, while over the same period it increased only modestly in France and barely at all in Austria.

The unions had very limited representation on the Hartz Commission, with only two out of 15 members, and therefore no power to shape its conclusions (Betthäuser, 2017). The unions were de facto sidelined by the Schröder government, which had no interest in aligning its policies with the unions. Their institutionalised role in the Federal Employment Agency was no help in this regard, and was indeed further weakened in the reforms (Hartz III). Given the Federal Employment Agency's limited formal powers in policy development, arguably more important in clearing veto points was the abolition of the Ministry of Labour and Social Affairs, traditionally closely aligned with union views, and its replacement with a new Ministry of Economics and Labour after the 2002 elections.

In line with our expectations, German unions have pushed for enhanced protection for outsiders in recent years, with some notable successes. Following a successful union media campaign to shape public opinion (Marx and Starke, 2017), the Grand Coalition government led by the centre-right CDU (Christlich Demokratische Union Deutschlands) with the SPD in 2013 introduced a nationwide minimum wage, and later in its term of office also re-regulated temporary agency work and the conditions under which fixed-term contracts can be concluded. The unions pursued these policy objectives in the political arena, in part in recognition that their institutionalised powers in sectoral corporatist institutions were weakening (Mabbett, 2016). Governments were willing to make concessions to union pressure on these issues, not least as Germany's strong competitiveness undercut any employer arguments against them (Rathgeb and Tassinari, 2020). The unions' continued desire to reverse aspects of the Hartz-era unemployment benefit reforms, however, gained no political traction until the election of the SPD-Liberal-Green coalition government in late 2021.

Conclusion

The previous section showed multiple instances of trade unions seeking to advance the cause of improved social policy and labour law protection for outsiders in conservative welfare states over the past two decades. We observe this not only in Austria, which, despite union membership decline, has encompassing labour representation due to high levels of union centralisation and its unique chamber system, but also strikingly in France, with the lowest union density in the developed world. This goes rather against the grain of received wisdom, which often portrays unions as narrow representatives of their members. We would emphasise that, while unions of course represent their members, this conflicts less with advocating for better social protection and working conditions for unorganised workers than is typically assumed.

When liberalising and dualising reforms have been effectively resisted in conservative welfare states in recent times, therefore, it has largely been thanks to organised labour's residual capacity to influence policy-making. In a context of membership decline, trade unions' institutional prerogatives are potentially an important source of such influence. We have focused especially on unions' institutional role in unemployment benefit systems, a traditional feature of these welfare states, in offsetting their loss of other forms of power. As we have shown, institutional roles in unemployment protection have often helped unions to secure better policy outcomes for outsiders, sometimes as part of wider corporatist policy-making structures but also in their absence. But we have also illustrated that these arrangements vary significantly across conservative welfare states, and these variations matter in terms of the extent to which the power unions derive from them is conditional on a government's need and/or willingness to continue to 'share public space' in this policy field.

Putting unemployment insurance in the broader context of labour market policy, our analysis has wider implications for thinking about different types of union institutional power and the conditions under which they lead to policy outcomes that are more inclusive. Unsurprisingly, it is in the most corporatist of our cases – Austria – that unions’ ability to counteract dualising reforms through concerted policy-making has been evident across the most sub-fields of labour market policy. But this wide-ranging institutional power is not immutable, and has been less important for outcomes when stable and unified governing coalitions have felt able to dispense with corporatist policy-making. By contrast, although in statist France unions are excluded from policy-making in many areas, the prerogatives they enjoy in unemployment insurance are strong, and until very recently even single-party governments with comfortable parliamentary majorities have been reluctant to override them. This suggests a general need to distinguish analytically between the breadth and the depth of union’s institutional power resources,³ and – relatedly – to appreciate the fact that system-level characterisations of state–society relations may be a poor predictor of decision-making dynamics in particular policy sub-fields.

Mitigating the economic shock provoked by measures to contain the COVID-19 pandemic has evidently been at the centre of labour market policy-making since March 2020. Governments in all three countries expanded short-time work schemes (Müller et al., 2022) and extended unemployment benefit entitlements. The harsh unemployment insurance reforms introduced by the Macron government in France were temporarily placed on hold. The Austrian, French and German unions were consulted on these measures and helped to shape them. But even in liberal welfare states such as the United Kingdom, trade unions engaged in concertation with governments over policy responses to the COVID-19 crisis. A sterner test of union power will likely unfold over the coming years, as governments seek to consolidate public finances at a time of significant labour market reallocation. Our analysis suggests that the more unions can assert their legitimacy to coproduce policy responses, which in conservative welfare states is typically grounded in historical administrative and regulatory roles, the better the most vulnerable groups in the labour market will be protected.

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3 We are grateful to an anonymous reviewer for suggesting this terminology to us.

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