

The future of the welfare state: paths of social policy innovation between constraints and opportunities

Urbino, 17-19 September 2009

Trade Unions as Actors in the Social Insurance System: a Comparative Analysis of French and German Health Funds

Udo Rehfeldt

IRES

16 Bd. du Mont d'Est

F-93192 NOISY-LE-GRAND Cedex

Tel: ++33-1 48 15 19 11

Fax: ++33-1 48 15 19 18

E-mail: udo.rehfeldt@ires-fr.org

Catherine Vincent

IRES

16 Bd. du Mont d'Est

F-93192 NOISY-LE-GRAND Cedex

Tel: ++33-1 48 15 19 14

Fax: ++33-1 48 15 19 18

E-mail: catherine.vincent@ires-fr.org

Paper presented at the 7th ESPAnet conference 2009
Session: nr. 6 – Social Concertation in Europe: Actors, Institutional Dynamics
and Welfare and Work Reforms

Germany and France are the two main European Bismarckian Welfare States, in which the social insurance system is financed by employers' and employees' contributions and where the social security funds are jointly managed by the social partners. Yet, in both countries, neither trade unions nor employers' organisations are empowered to shape the economic and institutional rules of the welfare system which belong to legislator's attributions. For political reasons, governments have rather sought cooperation with the interest groups, and more particularly with trade unions, before making decisions on welfare reforms. The nineties were a turning point in welfare policies, based on consultations and negotiations: the reforms, which call into question the legitimacy of the involvement of social partners in the management of social protection, were often implemented without the support of trade unions.

While there is a lot of literature on the governance of welfare institutions, much less research has been devoted to the involvement of social partners in these institutions. Our aim is to give new insight into the role of trade unions in the day-to-day management of the social security system. France and Germany, which are the subject of this study, show similar trends: the legitimacy of trade unions to carry out this management is questioned by experts and high-ranking civil servants, while some reforms have tried to transfer part of their attributions to the State. Nevertheless, the involvement of trade unions in the management of the social security institutions still represents an important way of maintaining a social control by employees.

In France and Germany, trade unions participate in the management of health insurance through members of health fund boards, who are designated in the French case, or elected by employees in the German one. Our research (Rehfeldt, Volovitch, Vincent, 2008) was based on a quantitative survey via a substantial questionnaire aimed at all the union board members of the French local health funds. We then compared the results with those of a similar German study (see the methodological information box below). In spite of obvious institutional differences, the comparison highlights similar developments and shared trade union issues. Does the role of the unions in the health insurance funds amount to formalism without substance or is the will to participate in the defence of the idea of management by these directly concerned by the social security system still alive? After a presentation of recent reforms of the governance of health insurance in France and Germany, this article will give some elements of reply to this question.

I – The development of the health insurance systems: challenge to the legitimacy of the actors in a context of controlling expenditure on health

In spite of different timing – at the end of the 19th century in Germany and at the end of the Second World War in France – the bases of the social protection systems in both countries are similar (apRoberts et al., 1997). In 1881 in Germany – as was the case later in France - management of compulsory social insurance was attributed by the State to employers' organisation and trade unions. The unions were very reluctant to be involved, as they wanted, in particular, to maintain workers' independence. This was also the case in France. On both sides of the Rhine, the principle of a predominance of employee elected representatives on the boards of the funds was later reduced to equal numbers of union and employer representatives. Opposition to such parity led to union mobilisation in both countries. Even though there is no simple functional correspondence between a form of governance and the area of social protection, both the French and German health insurance systems are built on two similar pillars, namely the predominance of the State regarding codification, even though the social partners are consulted about major policy guidelines, and joint management of the funds (Döhler, Hassenteufel, 1996).

Methodological information box

The source of information on employee representatives in the health funds in France comes from a quantitative survey that was carried out by IRES in 2006. The administration of the questionnaire was monitored from beginning to end by the trade union confederations (CFDT, CFTC, CGC, CGT, FO). The questionnaire was sent to all full and substitute board members of the local funds of the general social security scheme, namely the CPAM (health insurance), the CAF (Caisse des allocations familiales: Family allowance fund) and URSSAF (Union pour le recouvrement des cotisations sociales: Agency for the collection of social contributions). The pension sector, which does not have local structures, was not included. 2,325 of the approximately 5,500 questionnaires sent out were returned, i.e. a 42% response rate. The rate was 44% for the CPAMs and even 60% for full members.

In order to know who are the employee representatives in the health funds in Germany, we used the results of a survey carried out by a team of sociologists in 2005 (Braun et al., 2007 and 2008). It was funded by the Hans-Böckler Foundation, which is close to the trade union confederation DGB. The questionnaire was sent to all local and subsidiary health insurance funds, the great majority of occupational funds, and only some of the company funds. The major difficulty was lack of knowledge as to who were the representatives. The method chosen was to send the questionnaires to the funds' administrations, which then distributed them to the union board members. The response rate was 48% for office workers' subsidiary funds, 46% for manual workers' funds, 45% for occupational funds, 36% for local funds and 56% for company funds. The high proportion of union board members amongst those who replied leads one to thinking that they replied more than those elected on free lists.

However, the social doctrines, on which both systems are based, have not played the same role and, above all, the use made of them by the actors has been different. In Germany, the concept of self-management (*Selbstverwaltung*) has served as an undisputed reference for all social actors (Thiemeyer, 1984; Schroeder, 2006). In France, joint management has been interpreted as a form of neo-corporatism, but this interpretation is questioned by some actors and researchers (Duclos/Mériaux, 1997; apRoberts et al. 1997). Above all, the choice of German trade unions to be involved in economic and social regulation has made it possible to build an autonomous sphere of collective bargaining and management of social affairs. Because French trade unions are divided, they have not been able to build global compromises accompanied by complex compensation. Joint management has remained fragmentary and – as is the case with collective bargaining – has always been subjected to the effects of State intervention. However, in health insurance, such growing interference by the State and resulting reduced independence of the social partners is to be observed in the German case as well.

1.1 – France

Since its creation, the social security system has undergone changes to the way it is governed. Very early on, the representatives of occupational interests – and especially the unions, which constituted the majority of the members of the boards of directors of the health insurance funds - were criticised for instrumentalising the joint bodies to their advantage, and also for their inability to carry out their management responsibilities. There were thus a series of reforms, first and foremost concerning the composition of the boards of directors.

The 1945 decrees, which created the social security system, established an institutional model of majority management by the unions (two-thirds of the representatives), with the board members of

the various funds¹ being elected. The employers immediately opposed this model and numerically equal joint management became its emblematic demand. Developments in the number of union representatives on the boards of the social security funds later reflected the existing balance of forces. Equal numbers of employer and union representatives, as well as the abolition of the elections, were imposed by a right-wing government in 1967 and survived the May 1968 events, even though the return to union predominance was a major union demand at the time. Restoring both the union majority and elections was one of the first things the left did when it came to power in 1981². The right-wing had to wait until Juppé's reform in 1996 to restore the balance. It also added representatives of the mutual insurance schemes, thus turning the boards from bi-partite into tri-partite bodies. The symbolic force of the arithmetics involved is clear, but it did not overturn the rationale on which the functioning of the funds was based. In the French context of increasing trade union divisions, the employers developed strategies of alliances with certain unions in order to marginalise others, in particular the CGT.

More fundamentally, the reorganisation of the roles and powers of the union and employer actors in the course of the various reforms has led to their loss of power in several areas. Between Jeanneney's reform in 1967 and Juppé's in 1996, different reforms removed the power of the board members to appoint the heads of the funds and the management of their staff by gradually establishing – alongside policy management exercised by the boards – a technical department composed of leading executives employed by the social security system (Duclos, 1998). Douste-Blazy's reform in 2004 completed the process by creating a new figure in health insurance, namely the director-general. At another level, and in order to make up for the shortcomings attributed to the social partners, the funds became increasingly managed by a “Welfare Elite” (Genieys, Hassenteufel, 2001), composed of high-ranking civil servants, who replaced the intermediate body composed of the social partners. Finally, the observed absence of responsible actors running the system led in 1996 to the transfer of control of social finances to Parliament, thus completing what some called “state control” of the governance of the social security system and, at least, a redefinition of powers within joint regulation.

As far as health insurance funds are concerned, the current organisation of the general scheme is composed of two levels³: national and *département* or *infra-département* levels. At the national level, management is carried out by the CNAMTS (Caisse nationale d'assurance maladie des travailleurs salariés: National salaried employee health insurance fund). This national fund's role is in particular to run the local CPAMs (Caisse primaire d'assurance maladie: Local health insurance funds), of which there are 128. At the *département* or often *infra-département* levels, these basic bodies register those who are insured, and both award and pay benefits. They have more than 100,000 employees. Since 1996, the representative trade unions designate for a period of five years representatives who sit on the boards of the CNAMTS and the CPAMs, alongside employers' organisations and the FNMF (Fédération nationale de la mutualité française: National federation of French mutual insurance). The unions' share of board members⁴ is calculated on the basis of the last elections in 1983. The CFDT, CGT and CGT-FO designate 4 representatives each, while the CFTC and the CGC each designate 2.

1-2 – Germany

The first public social welfare institutions were created in Imperial Germany between 1881 and 1884

¹ See the Methodological Information Box below for a list of the funds concerned.

² However, elections were only held once. At the request of some of the unions, elections were suspended and board members were appointed by their respective unions.

³ The regional level is due to develop in the health sector following the law on “Hospitals, patients, health and regions”, which is the course of being adopted by Parliament.

⁴ In health insurance funds -since the 1996 reform – representatives on the boards are no longer called 'administrators', but 'advisers'; the term 'board members' has been used throughout the English text.

by Chancellor Bismarck, at first only for workers. The management system was based on the self-administration tradition, which was the basis of the pre-existing corporative mutual insurance funds. At first, insurance was organised by occupation, but the funds were then unified locally. After attempts by trade unions to organise an independent insurance system, they agreed in 1895 to participate in elections to the funds, where they obtained the majority of seats, thus consolidating the reforming wing of the union movement. The system of social insurance became an important linchpin of trade unionism in Germany. The first consequence of their participation in the many social security bodies was that union officers acquired a major material base. The various funds, notably health insurance, constituted a major source of future union leaders. The downside of this professionalisation was the rapid bureaucratisation of the labour movement, which was already highly criticised at the time. The second consequence was that the socialisation of labour movement leaders in the funds occurred via the experience of cooperation with the employers, on the one hand, and the State, on the other.

Apart from the Nazi period, the principle of “predominant participation” of the insured in the management of the funds was applied until 1951, when a law of the new Federal Republic of Germany standardised arrangements on its territory, by introducing the distribution of seats in the different sectors according to a model that was strictly based on parity, in spite of opposition from the unions, which wanted to maintain the predominance of employees in the administration of the funds. The role of the unions is diminished by this law, as it also enables other associations that are of a “social and occupational nature” to participate in the elections to the boards of the funds. Participation in the administration of social protection thus became a less important part of union strategy, especially compared with collective bargaining policy, which was already traditionally at the heart of union action, and codetermination (*Mitbestimmung*), i.e. participation in the supervisory boards of major companies, which was introduced in the same period.

Doctors also played an increasing role in the administration of health insurance via their professional associations. The growing involvement of the State likewise reduced the role of self-administration. As a general rule, the legislator fixed the level of contributions and benefits. However, management remained relatively independent in compulsory health insurance, where the funds fixed contributions themselves, as well as the additional benefits. They were also independent regarding staff management and negotiating rates with doctors and hospitals.

The German health insurance system is traditionally fragmented and extremely decentralised. The Seehofer reform in 1992 partially unified the funds by bringing together local funds and establishing financial pooling between funds, in order to reduce differences between contribution rates. However, in 1994, there were still 1,149 funds, but a process of mergers started afterwards. In 2005, there were only 253 left. The boards of the funds are composed of “honorary” members, who are elected in theory, but in practice most of them are designated by the employers' organisations and the unions. The board elects an executive. Since 1996, it is exclusively composed of full-time professionals (employees of the fund). The 1951 law also introduced six-yearly elections of representatives of employees and employers in the different funds. However, in the great majority of cases, there are no real elections, because serving members agree to the renewal of one or several lists with the same number of candidates as seats. Between 1993 and 2005, the number of funds with elections dropped from 23 to 6, but the proportion of employees concerned only declined from 33% to 30%. The participation rate, which was 44% in 1996, was only 32% in 2005. The big winners of the 2005 elections were the free lists. In the four subsidiary funds of office workers, they won between 74% and 87% of the votes; the rest were shared between union lists and Christian associations' lists (which sometimes had joint lists with the unions).

The Seehofer reform is often presented as the Federal State retrieving control of the system. Its impact is, however, more contradictory in that unification of the funds has also consolidated their power. It is nevertheless remarkable to observe the parallel nature of reforms in the 1990s in France and Germany in two respects: on the one hand, control of health expenditure by the funds in Germany – contrary to the situation in France; and on the other hand, challenges to the management role of unions. In this context, what role do the union board members of the health insurance funds

play and what is the importance of this function in relation to other union action?

II – Union board members of the health insurance funds

The great losers of recent developments in health insurance seem to be the social partners, whose legitimacy for managing social protection – and principally their participation in the funds' boards – is greatly undermined. In order to understand how they take on board a function that is important for the union movement, it is useful to have better knowledge of the population composed of thousands of board members who are mandated by their unions in France and in Germany. Who are they? What was their union itinerary? Why and how did they accept/choose this kind of function? How did they carry out their mandate? What is their opinion of this function? Their replies highlight of course the differences related to their differing national situations, but many similarities can be found regarding their socio-occupational profiles and their union paths.

II. 1 Union board members of health insurance funds in France

The results of comparisons between employees, union members and board members make it possible to identify more effectively the demographic and socio-occupational profiles of the latter and to highlight, by using comparisons, a typical profile of CPAM board members.

It should first be recalled that the great majority of board members are employees (61%). Their demographic profile, however, is different from the population they come from. There is an appreciable gap between men (52,4%) and women (47,6%) employees. The gap is significantly bigger amongst board members, three-quarters of whom are men. Participation in social security fund boards is really men's business if one examines the gender distribution of other groups of union representatives. Thus, in 1996 the date of the last survey of this population, 30% of women secretaries of works councils were elected on union lists. The funds, in which access to the function of board member only depends on a process of designation, brings up the rear as far as feminisation is concerned, in spite of unions' declared desire to promote gender parity.

Board members are significantly older than employees as a whole (on average 56 years old). This age handicap does not stop them from having more qualifications than the people they represent. The gaps are smaller regarding occupational features, thus reducing the impression of rupture between the two populations. Three-quarters of board members are employees from the private sector. Their former or current workplaces are distributed roughly like those of all employees between private companies, public companies (an over-represented category) and the civil service. When they work in a private or public company, it is almost always a matter of a big company; only a quarter comes from SMEs of fewer than 200 employees. Their jobs are slightly more skilled, especially if they are civil servants. Their great stability in their company or department is what differentiates them most. But this feature should be treated carefully, because it could result as much from the fact that they are older, from their level of qualifications or skills or from the size of the company they come from. Moreover, they are trade union members, whose occupational stability can be assumed to be greater.

Board members of health insurance funds are thus older, have more stable employment and are more qualified than employees in general. These factors reflect better integration in their company or administration and also certainly - because they are firstly and above all trade union activists – in their union.

Board members are very long-standing experienced trade unionists: 88% have been members for more than 10 years, rising to over 90% of full board members. They know the union collective very well. For the great majority, their duty to the union which asks them to represent them is the prime motivation for their candidature. The union cross-industry structures are attentive to the activist profile of the members they select to represent them on the boards. In order to be asked by their

unions, they first have to make themselves known to the leadership by their involvement in their companies and union structures. They have had many union responsibilities and those who access this mandate, combine it with others, mainly at company and cross-industry levels. Generally, they are expected to keep them, thus ensuring that the link is maintained between the structure that designates them and those who are mandated. Instructions and recommendations may come from the trade union confederation regarding the choice of candidates, but the selection process results, at the end of the day, from many different micro-decisions, rather than from a deliberate overall strategy.

Overall, a third of board members are full-time union officers, 40% are economically active lay members and the rest are retired. The resources in terms of economically active lay members are similar between the unions, and, above all, they do not seem to have the means for really influencing their numbers. The differences between unions is centred on the respective importance given to full-time officers and retired members. From a union point of view, the health insurance funds are one of many aspects of collective representation. What is decisive is the overall consistency of involvement, not simply the rationality of managing social protection. It is thus this search for overall consistency that determines unions' choices regarding allocating resources to the funds and also regarding the way coordination between the board members and union teams is organised. Exercising a mandate as board member is part of a range of union activities that extends far beyond the context of the funds.

The choice is for board members who are experienced thanks to their long service on the boards of the funds, which leads to specialised representation. Coordination of exchanges between networks of board members and their union cross-industry structures, which is especially strong in the CPAMs, also makes it possible to ensure consistent practices and positions. Two different kinds of coordination can be identified, namely that of the CFDT, where the regional cross-industry level is the decentralised linchpin of coordination; and that of Force Ouvrière (FO), where control is provided centrally by the national confederation. Finally, the consistency of the networks of board members is also consolidated by their involvement throughout their mandate in training that is more often than not organised at national level.

The view board members have of the way the funds function and of the resources at their disposal is much more positive than expected. However, the assessment they make of the usefulness of their mandate – both in relation to their union and to employees – is more negative. In spite of satisfactory resources and the relatively good way in which the funds function, they express a certain degree of confusion given developments in the forms of governance. Union action within the local funds can be felt to be similar to social assistance regarding individual cases of distress, which maintains board members' feeling of usefulness.

II.2 – Employee representatives on the boards in Germany

As in France, board members in Germany are most often older men who have had their mandate for a long time. 86% of board members are men. Men are on average 59 years old, while women are 54. 62% of board members - 65% of men, but only 42% of women – were already exercising their mandate before 1993. 25% of board members who are men, but only 13% of those who are women, are retired members.

30% of board members have a university or similar diploma. The percentage is even higher amongst women (32%). Higher level office workers predominate amongst both men and women. Amongst the men, there are a big number of skilled workers (23% including foremen) and some civil servants (5%) and even some academics. However, there are no civil servants or academics and only two manual workers amongst women

69 % of board members represent the DGB confederation or one of its affiliated unions. They are mainly designated board members. 6% represent an organisation of Christian employees. 20% of

board members say they represent “other employee associations”, amongst which are also to be found some small trade unions that compete with the DGB. Only 6% represent a “free” list. 30% of union board members are full-time union officers. This percentage is significantly higher amongst women (40%) than men (28%).

One of the measures of board members' commitment is the time they devote to their mandate, namely 15.2 hours per month. Most board members do not have any problems in carrying out their mandate. They feel sufficiently informed and qualified to be able to deal with the information that they are given. Many board members consider, however, that they do not have enough training to participate on new topics, which play an increasingly important role in the exercise of their mandate. The “older”, more qualified members make most effort to go on appropriate training, whereas younger, less qualified and less committed ones are in the opposite situation.

Board members generally consider that the boards fully use the channels of influence available to them in order to make employees' needs heard in the face of management's actions. Union board members are often a little more critical and deplore that they themselves do not take more initiative. Indeed, management is generally the one who takes the initiative of proposing new benefits and programmes. Board members are primarily concerned about employees' interests as contributors and about the balanced financial position of the funds. Employees' interest in terms of their insurance – even as patients – only takes second place. More than half of board members indicate that the needs of those who are insured cannot be taken more into account by the funds, because of budgetary constraints. A quarter of board members consider that the main reason for this failure is the contradictory nature of the interests of those who are insured.

In spite of differences between the German and French trade union movements, it is remarkable to note that the socio-occupational profiles of the board members are very similar in both countries. An analysis of practices in both countries also shows that the forms of union representation in the management of the funds are quite similar.

Conclusion

The historical conditions of the birth of jointly-managed institutions, as well as their development, are different in France and Germany. However, on both sides of the Rhine, joint management is increasingly subjected to State supervision and recurrent legal reforms, which aim at improving management effectiveness and reducing expenditure. The impact of these pressures is to render the way both systems function more similar.

Both surveys of union board members bring to light other convergences between the countries. Firstly, there is growing professionalisation of joint management. In Germany, it takes the form of creating full-time managers and transforming assemblies of representatives into boards of directors. The forms of joint management are thus becoming similar to structures adopted in France. In both countries, there is increasing differentiation between a body of professional managers and a more diversified population of union representatives, composed of full-time union officers and union activists. The latter's tasks are gradually developing into activities of general supervision, a posteriori control of management by experts and the creation of one-off solidarity operations.

The participation of union board members is not directly challenged by legislation in either country. It is, however, subjected to public debate that is nourished by criticism coming from certain employer and political circles, and amplified by the media. In Germany, where the mandates of board members are in principle subjected to regular elections, the unions are on the defensive, because they do not have the monopoly of representation on the lists of candidates. There is an increasingly strong demand for these elections, which currently concern only a few funds, to be extended to all of them. The pluralism of the lists in Germany can be likened to union pluralism in France. In the latter, the unions themselves put an end to the social security elections in order to limit electoral escalation and conflicts between them. In Germany, some associations and free lists

practice demagogic escalation by instrumentalising a populist anti-union wave and taking advantage of weak union presence in some service sectors. Here, the union movement pays for co-management practices in the funds that are of a too routine nature and whose aims are insufficiently communicated to the many employees concerned. Also in France, too little is known about union work in the funds and it can thus easily be suspected of being of no use. If, on the one hand, much criticism coming from all angles reveals the increasingly fragile nature of the trade union movement in both countries, it can, on the other hand, have an indirect salutary impact when the criticism nourishes internal debates on renewing union policies on social protection.

Bibliography

- apRoberts L., Daniel C., Rehfeldt U., Reynaud, E., Vincent C. (1997), « Formes et dynamiques de la régulation paritaire », in :., *La Revue de l'IREs*, n° 24 (*Spécial "Le paritarisme : institutions et acteurs"*), Printemps-été.
- Braun B. et al. (2007), Vorläufiger Endbericht des Projektes *Repräsentation von Versicherten und Patienten in der GKV durch Selbstverwaltung und Kassenwahl*, Düsseldorf: Hans-Böckler Stiftung, Düsseldorf, Januar.
- Braun B., Greß S., Rothgang H., Wasem J. (eds.) (2008), *Einflussnehmen oder Aussteigen ? Theorie und Praxis von Kassenwechsel und Selbstverwaltung in der GKV*, Berlin: edition sigma.
- Döhler M., Hassenteufel. P (1996), « Configuration sectorielle et politique de régulation de l'assurance maladie, une comparaison France-Allemagne », in : Pallier B. (eds), *Comparer les systèmes de protection sociale en Europe. Vol. 2. Rencontres de Berlin*, Paris: MiRe.
- Duclos L. (1998), « Le paritarisme au quotidien. La médiation du conseil d'administration dans la production du service public », *Recherches et prévisions*, n°54.
- L. Duclos et O. Mériaux (1997), « Pour une économie du paritarisme », *Revue de l'IREs* n° 24, (*Spécial "Le paritarisme : institutions et acteurs"*), printemps-été.
- Genieys W., Hassenteufel P. (2001), « Entre les politiques publiques et la politique : l'émergence d'une élite du *Welfare* », *Revue française des affaires sociales*, n° 4.
- Rehfeldt U., Volovitch P., Vincent C. (2008), *Qui sont les administrateurs et les administratrices syndicaux dans les organismes de sécurité sociale ?*, Rapport de recherche pour la MiRe-DREES, Noisy-le-Grand: IRES.
- Schroeder W. (2006), « Selbstverwaltungskorporatismus und neuer Sozialstaat », in *Zeitschrift für Sozialreform*, N°2.
- Thiemeyer, T. (1984), "Selbstverwaltung im Gesundheitsbereich", in: Winterstein, H. (Hg.): *Selbstverwaltung als ordnungspolitisches Problem des Sozialstaates II*, Berlin: Duncker & Humblot. (Schriften des Vereins für Socialpolitik, Band 133/II.)