

## **Chapter 4**

# **Beyond austerity: upgrading German public services and the role of trade union campaigns and collective bargaining**

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### **1. Introduction<sup>1</sup>**

In a comparative perspective, the evolution of employment and working conditions in the public sector in Germany is exceptional. Germany was hit by the global financial crisis much less severely than many other EU member states and recovered comparatively quickly from the economic downturn. Consequently, the public sector was not affected by the crisis. On the contrary, the outbreak of the crisis coincided with a moderate improvement of working conditions and an expansion of employment in the public sector, which stands in sharp contrast to developments in many other countries.

However, the public sector in Germany has been subjected to far-reaching reforms in the past (Dribbusch and Schulten 2007). Many reforms introduced in other European countries in response to the crisis had been implemented in Germany long before the crisis. The same holds true for the ‘austerity’ policies that became dominant in Germany in the 1990s and 2000s. In this sense, Germany was one of the forerunners of contemporary public sector reforms in Europe.

Our basic research question is: to what extent do trade unions in particular and industrial relations in general contribute to a modernisation of the public sector? In our understanding ‘modernisation’ refers to the process of adapting public sector working conditions to changed circumstances and requirements responding to societal developments such as the need to improve the quality of public services in care sectors due to, for example, increased feminisation of the labour force or an ageing population.

This study is mainly based on quantitative statistical data about the three sectors chosen for this study gathered from official sources. The statistical data available enables a systematic and structured comparison of the three sectors. Information about trade union campaigns was collected from official websites. In addition, we conducted two background interviews with trade union representatives from GEW and ver.di responsible for the sectors analysed here. We also drew on several interviews conducted for two previous projects about the hospital sector (for more information see Schulten and Böhlke 2012; Schulten and Schulze-Buschhoff 2015).

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1. This chapter is based on a study for the project ‘Bargaining and Social Dialogue in the Public Sector’ (BARSOP), financed by the European Commission, Industrial Relations and Social Dialogue Programme (Project VS/2016/0107).

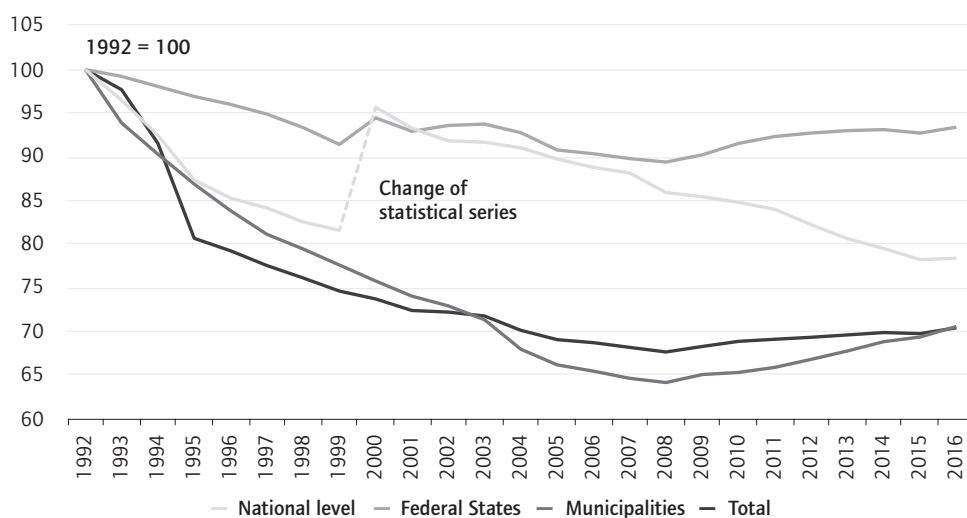
In this chapter, we analyse public sector development in three sectors: primary education, hospitals, and municipalities, focussing on day care centres. We chose day care centres as our example for the municipal sector because trade union campaigns played a particularly important role in the upgrading of the profession of childcare workers. As we show in the case studies, trade union strategies were crucial for the improvement of working conditions. Three elements contributed to the trade unions' success: (i) poor working conditions (above all, in terms of workload and work intensity); and the unions' strategy of (ii) linking working conditions to the quality of public services and (iii) legitimising their demands by connecting them to issues such as gender equality and recognition and upgrading of care work in a broader sense. In section 2 we give an initial overview of the public sector in Germany. In sections 3 to 5, we present our case studies. Finally, section 6 summarises and compares our findings.

## 2. The public sector – an overview

### 2.1 Profile of the public sector

Changes in working conditions in the public sector in Germany are not a result of budget deficits caused by the financial and debt crisis. Public sector employment was under constant pressure long before this (Brandt and Schulten 2008a; Keller and Seifert 2015: 15–16). Major cutbacks were implemented in times of high structural deficits during the 1990s when German unification imposed constraints on public budgets (Keller 2013: 363). Public sector reforms were also a result of efforts to meet the criteria of the Stability and Growth Pact in the run-up to economic and monetary union (Keller 2016: 193; Vesper 2016: 16–17). Finally, Germany implemented several waves of privatisation during the 1990s and 2000s (Brandt and Schulten 2008b).

Figure 1 Employment in the public sector, 1992–2016



Source: Statistisches Bundesamt, Fachserie 14 Reihe 6, several volumes; cf. Keller and Seifert (2015: 3).

From 1992 to 2007, public sector employment was cut from 6.66 million to 4.54 million – a decrease of 32%. Employment cutbacks were particularly strong at the federal level, especially in the areas of military defence and railway transport (Vesper 2016: 17). Privatisations account for half of the reductions. Compared with other OECD countries, nowadays, Germany has a medium-sized public sector (Keller 2016: 192–193). Furthermore, working conditions have deteriorated substantially. Meanwhile, forms of atypical employment – such as fixed-term, part-time and marginal employment – are widespread in the public sector. Atypical employment is as frequent in the public sector as in the private sector (Keller and Seifert 2015). In addition, the working time of public sector workers has been increased. The working time of civil servants increased from 38.5 to 40 hours at the federal level and in some *Länder* (federal states) even up to 42 hours (Dribbusch and Schulten 2007: 170–172). As a result of these reforms, the public sector ceased to be a ‘model employer’ (Keller 2016: 198). Up to the crisis, the drastic reorganisation of the German public sector was without precedent in the EU (Keller 2013: 364).

Notably, the turning point in the development of public sector employment coincides with the outbreak of the financial crisis. Since 2007, public service employment has been slowly growing, reaching 4.69 million employees in 2016 (figure 2). When taking into account only the *Länder* and the municipal level, job growth during this period roughly amounts to 9.2% as compared with only about 3.3% across all levels of government.

The public sector’s development throughout the crisis contributed to the demand-stimulating fiscal and economic policy that helped to overcome the economic downturn in Germany relatively quickly (Vesper 2016: 17). The development of public sector employment in Germany is especially remarkable since it stands in sharp contrast with trends in other European countries. Thus, the imposition of ‘austerity’ in the German public sector is not connected to the financial crisis as in other eurozone countries. It was partly driven by monetary integration, but at a different point in time.

Although public sector employment has increased recently, the former trend of cutbacks and deteriorating working conditions may well be resumed in the future because a so-called ‘debt brake’ has been established in German constitutional law (Art. 109 GG) and at the EU level (‘Fiscal Compact’) (Keller and Seifert 2015: 23; Seikel 2016: 1404). The German *Länder* will comply with the rules of the debt brake starting in 2020, which in all likelihood will put stronger pressures on public budgets (Keller 2014: 400).

## 2.2 Industrial relations in the public sector

In the German public sector, there are two types of employment status: civil servant (*Beamte*) and public employee (Ellguth and Kohaut 2011: 12; Keller 2014: 389; 2016: 191). Public employees have the same legal status as employees in the private sector. They have the right to strike and their working conditions are regulated by collective agreements and labour law. In contrast to public employees, civil servants have a

special legal status that guarantees lifelong employment. Moreover, civil servants have a separate social security system and do not have to pay social contributions. The legislature unilaterally defines the working conditions of civil servants. Civil servants do not have the right to strike (Keller 2013: 360; 2016: 191). The organisations representing civil servants' interests have the right to be consulted only during the legislative process (Keller 2013: 367). In practice, these rights have become functional equivalents of collective bargaining rights (Keller 2016: 203). Thus, working conditions are not determined by collective agreements. In the past, the results of collective bargaining rounds for the public sector were nevertheless usually applied to civil servants (Keller 2013: 360), but since 2006 this is no longer always the case.

The collective bargaining system for the public sector is highly centralised at the national level (Keller 2013: 366; 2014: 394). Before the mid-2000s, the federal state, the *Länder* and municipalities formed a bargaining association and negotiated jointly with the trade unions on the working conditions of public sector employees at all levels of government. Public sector employees and civil servants are represented by ver.di (Vereinte Dienstleistungsgewerkschaft), with about 2 million members, GEW (Gewerkschaft Erziehung und Wissenschaft), with about 266 000 members, and GdP (Gewerkschaft der Polizei), with about 173 000 members. The main representative organisation for civil servants is DBB (Beamtenbund und Tarifunion); however, there are also 370 000 public employees among its 1.28 million members (Keller 2014: 393; 2016: 205–207). The trade unions formed a bargaining association in 2007 (Keller 2013: 366).

In 2003, the *Länder* left the bargaining association of public sector employers; they no longer accepted the role of the federal government as leader of the negotiations. Since then, the bargaining association of the *Länder*, the Tarifgemeinschaft deutscher Länder (TdL), has negotiated independently and concludes collective agreements for the relevant portion of the public sector, with the exception of Hesse, which left the TdL in 2004. The *Länder* and the municipalities maintained their bargaining association and continue to conclude their own collective agreements. In 2005, the federal government, the municipalities and the trade unions concluded a new framework agreement (Tarifvertrag öffentlicher Dienst, TVöD), which replaced the former framework agreement (Bundesangestelltentarifvertrag, BAT). The TVöD established a uniform pay scale for blue- and white-collar workers. Furthermore, it introduced a new low pay rate below the lowest rate of the BAT, which is supposed to prevent further outsourcing. The TVöD contained opening clauses for a limited extension of the working hours of municipal employees. In 2006, the TdL and the trade unions also concluded a new framework agreement for *Länder* public sector employees (Tarifvertrag für den öffentlichen Dienst der Länder, TV-L), which maintained the main features of the TVöD (Dribbusch and Schulten 2007: 170; Keller; 2014: 394). The split on the side of the public employers has led to a decentralisation and fragmentation of collective bargaining, but only to a moderate and limited degree, because all the *Länder* except Hesse still conclude collective agreements at the national level (Keller 2013: 367).

In 2006, a reform of the German federal system – Föderalismusreform I – transferred the competence to regulate the working conditions of *Länder* civil servants to the

*Länder* themselves. This new ‘sovereignty’ has resulted in more heterogeneous working conditions for civil servants (Keller 2013: 368).

In contrast to the private sector, bargaining coverage in the public sector is stable (Ellguth and Kohaut 2017: 281). Collective bargaining coverage (93%) and trade union density (60%) are traditionally higher in the public than in the private sector (Ellguth and Kohaut 2011: 12–13, 16; Keller 2013: 365–66). This demonstrates the relative stability of industrial relations in the public sector.

The far-reaching privatisation and liberalisation of public services in the areas of public transport, energy, communication, water, waste disposal and hospitals has had a major impact on industrial relations and working conditions in these now private, formerly public sectors. The withdrawal of privatised companies from public sector collective bargaining has led to the emergence of new sectoral industrial relations regimes in the liberalised sectors and thus to a substantial fragmentation of the former collective bargaining system. In general, in the privatised sectors, collective bargaining coverage is significantly lower and working conditions have deteriorated (Keller 2014: 397–98; Brandt and Schulten 2008b 2012).

### **3. Municipality case - day care centres**

#### **3.1 Profile of the sector**

From the 1990s onwards the German childcare system entered a period of transformation that led to a fundamental modernisation of pre-school childcare and a significant expansion of childcare facilities (Kerber-Clasen 2017a). Traditionally, (West) Germany belonged to the group of ‘conservative’ welfare states (Esping-Andersen 1990) with a corresponding ‘gender regime’ (Schmidt 2012) that was largely based on a male breadwinner model and a fairly low rate of female participation in the labour force.<sup>2</sup> Against that background the standard pre-school childcare model was that of a ‘kindergarten’, which cared for children aged between three and six, although mainly on a half-day basis. Moreover, childcare for children below the age of three was an exception, so that usually mothers stayed at home during that period. The image of working in childcare was rather poor and it was often not seen as a qualified profession. Thus, the pay and working conditions of day care workers were also rather low.

The transformation of the German childcare system started at the beginning of the 1990s with the adoption of a new ‘Law on Child and Youth Welfare’ (Kinder- und Jugendhilfegesetz, KJHG), which aimed at a fundamental realignment of the German day care system, including an upgrading of day care work as a profession and an extension of the scope of day care facilities. Among other things, the reform stipulated that, from 1996 onwards, every child from the age of three should be entitled to a

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2. In the former German Democratic Republic female labour force participation was very high and was supported by a comprehensive system of day care centres. Although development in eastern Germany since unification assimilated into western German patterns, there are still remarkable differences regarding the profile and scope of day care centres in both parts of Germany (Schober and Stahl 2014).

day care place. In practice, however, the number of day care centres increased only slightly (Autorengruppe Fachkräftebarometer 2017: 22) during the 1990s, so that there continued to be a lack of day care facilities, in particular in larger West German cities. One major problem was that the responsible public authorities at federal state and municipal levels did not provide sufficient funding for an extension of day care centres due to large public deficits and the dominant austerity policy.

After the so-called ‘PISA shock’ in the early 2000s, when several OECD studies gave Germany bad scores, the idea that the German education system needed substantial improvement became the dominant view in all major political parties and social organisations. Against that background, from the mid-2000s the development of German day care centres entered a second reform phase, in which now much greater resources were provided for the system, including some special nationwide programmes to support the expansion of day care facilities (Meiner-Teubner *et al.* 2016). The latter also became necessary as traditional family and gender patterns came into question and the participation of women in the labour market increasingly became the standard model. One response to these trends was to extend entitlement to a day care place to children from the age of one in 2013.

In 2017, Germany had more than 55 000 publicly-funded day care centres, in which nearly 600 000 workers care for about 3.5 million children (table 1). Since 2006 the number of day care centres has increased by nearly 15%, while the number of day care workers has increased by around 70% (figure 2).<sup>3</sup> The latter indicates that care time was also significantly extended, so that most facilities now offer care for the whole day.

Table 1 German day care centres – key figures 2006 and 2017

	2006	2017	Change 2006/2017
Number of day care centres	48 201	55 293	+ 14.7 %
Public	17 759	18 228	+ 2.6 %
Non-public*	30 442	37 065	+21.8 %
Number of workers**	355 710	599 772	+ 68.6 %
Male	11 485	35 088	+205.5 %
Female	344 225	564 684	+ 64.0 %
Full-time equivalents**	281 558	483 488	+ 71.7 %
Number of children	2 954 928	3 499 206	+ 18.4 %
Care rate			
for children < 3 years	15.5%	37.7%***	+ 143.2 %
for children ≥ 3 years	89.0%	93.6%***	+5.2 %

\* Mainly non-profit and a very small number of private for-profit day care centres.

\*\* Pedagogical and administrative staff.

\*\*\* Data for 2016.

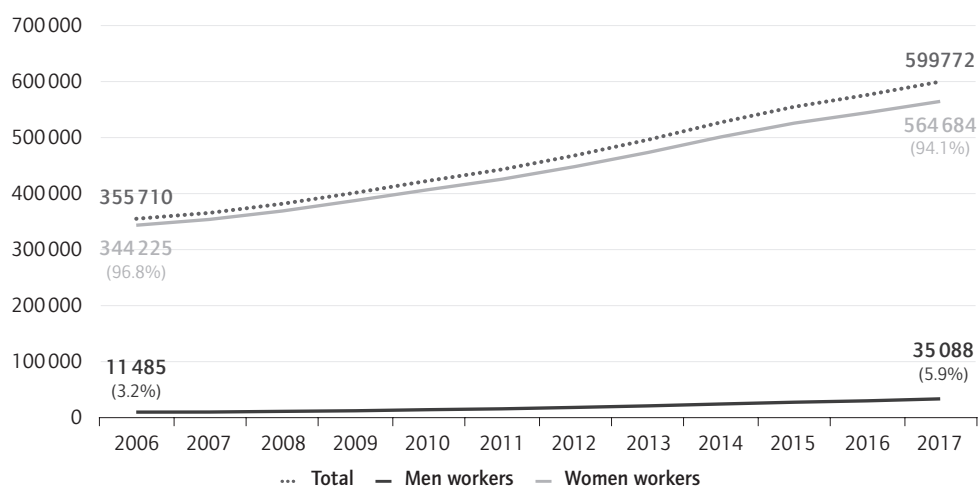
Source: Statistisches Bundesamt 2017a, WSI calculations.

3. Statistics on day care centres were fundamentally revised in 2006, so that no comparable data are available for the period before 2006 (Statistisches Bundesamt 2017a).

The nearly 600 000 workers currently employed by day care centres correspond to around 485 000 full-time jobs. 60% of all day care workers have only a part-time contract (Statistisches Bundesamt 2017a). Members of the largest group among them work between 21 and 32 hours per week. There is also a significant proportion of part-time workers on either 32 to 38.5 hours or 10 to 21 hours. Only 40% of day care workers have a full-time contract of 38.5 hours a week or more. Moreover, 80% of day care workers have a permanent contract, while around 15% work on a temporary basis and a further 5% are interns and other non-permanent staff (Statistisches Bundesamt 2017a).

Childcare has always been a female-dominated sector. In 2017, 94% of all day care workers were women. However, since 2006 the proportion of male workers in day care centres has almost doubled, from 3.2 to 5.9% (figure 2). In absolute terms the number of male day care workers has even tripled (table 1).

Figure 2 Number of workers\* in German day care centres, 2006–2017\*\*



\* Pedagogical and administrative staff.

\*\* Until 2008: 15 March of the respective year; since 2009: 1 March.

Source: Statistisches Bundesamt 2017a, WSI calculations.

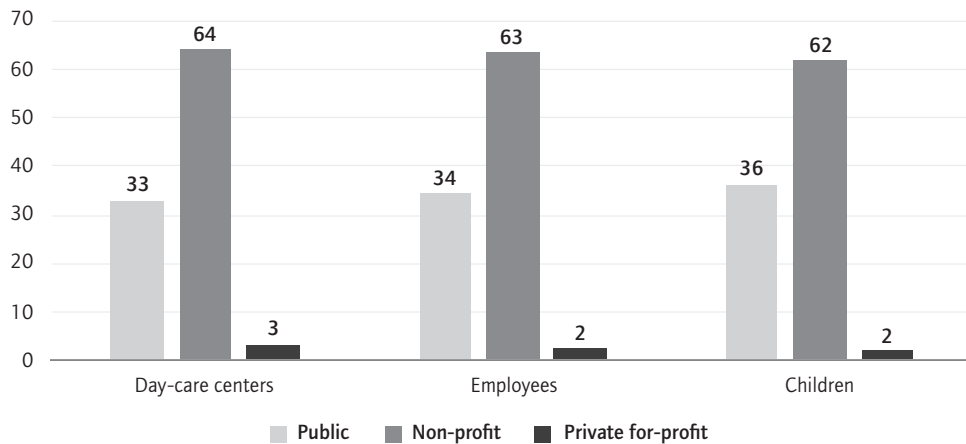
The number of children who attend a day care centre has increased by around 18% since 2016. While the care rate of children aged three or above grew from 89 to 94%, the care rate of children below the age of three has more than doubled, from 16 to 38% (table 1). In comparison with many other European countries, however, the care rate for children below the age of three is low (Seils 2013).

In terms of the structure of day care providers, there have always been two major groups in Germany (figure 3). One is public day care centres, run mainly by the municipalities. Public day care centres represent about one-third of all day care facilities. The other two-thirds are run by non-profit providers. The largest among them are the two large Christian churches and their welfare organisations Caritas and Diakonie, which represent half of all non-profit day care centres (Statistisches Bundesamt 2017a). Large



non-profit providers also include welfare organisations Arbeiterwohlfahrt and the German Red Cross, as well as the Paritätische Wohlfahrtsverband. The latter functions as an umbrella organisation for many smaller providers.

Figure 3 Ownership structure of German day care centres, 2017\* (%)



\* On 1 March 2017.

Source: Statistisches Bundesamt 2017a, WSI calculations.

There is also a large number of small and local day care providers, among them so-called ‘parents’ initiatives’ run by private parents’ clubs. Finally, there is a small proportion of private for-profit day care providers, which represent around 3% of all day care facilities. Among the latter are also a few company-related day care centres.

### 3.2 Industrial relations

The diversified composition of day care providers corresponds to a diversified structure of industrial relations (table 2). The public day care centres are integrated into the special industrial relations regime for the public sector. They are usually covered by the TVöD. The latter is negotiated between the federal government and the Municipal Employers’ Association (VKA), on the one hand, and a broad consortium of trade unions affiliated to either the German Confederation of Trade Unions (DGB) or DBB, on the other hand. There are also special provisions within the TVöD for education and social workers (including day care centres), such as, in particular, a separate wage table for these professions.

For non-public day care centres the collective bargaining structure is fragmented (GEW 2016). The day care facilities run by the two Christian churches and their welfare organisations Caritas and Diakonie adhere to the industrial relations regime that operates within Christian church-related organisations (Jähnichen *et al.* 2015): this is characterised by a special legal status based on the German constitution, which guarantees the churches full autonomy in regulating their internal affairs and thereby



enables them to partly withdraw from German labour law. As a result, industrial relations within church-related organisations are usually not covered by collective agreements. Instead, they conclude special ‘in-house’ arrangements that are negotiated within internal labour commissions (Arbeitsrechtliche Kommissionen) composed of employer and employee representatives on a parity basis. In most areas, church-related organisations do not accept either collective bargaining or employees’ right to strike. There are only some regional exceptions where church-related organisations are also part of regular collective bargaining (Wegner 2015). In practice, however, working conditions in church-related day care centres closely follow the public sector collective agreements, even though more recently the correspondence has become looser.

Table 2      **Collective bargaining in German day care centres, 2018**

Day care providers	Collective agreements
<b>Public</b>	Nationwide public sector collective agreements for municipalities
<b>Non-profit</b>	‘In-house arrangements’ (church-related day care centres) Company agreements at regional or local level (Arbeiterwohlfahrt, German Red Cross and some others) No collective agreement (most organisations under the umbrella of the Paritätische Wohlfahrtsverband plus most other non-affiliated providers)
<b>Private for-profit</b>	Company agreements or no collective agreement

Source: WSI Collective Agreement Archive 2018; GEW 2016.

The other larger welfare organisations such as Arbeiterwohlfahrt or the German Red Cross usually conclude company agreements at a regional level, whose provisions have in recent times often been below the level of the public sector (GEW 2016). In some regions the day care providers under the umbrella of the Paritätische Wohlfahrtsverband have created a joint bargaining commission, which negotiates collective agreements at the regional level. In many regions, however, these organisations also have no collective agreement at all. The same is true for most of the smaller non-affiliated day care providers, as well as for the small number of private for-profit facilities.

The largest trade union organisations representing day care workers are two DGB affiliates: ver.di and GEW, both of which represent day care workers in all public and non-public day care facilities. Considering the fragmented collective bargaining landscape in the sector, the unions’ principal demand is that all day care workers should be covered by collective agreements and that these agreements should be at the level of the agreement for public day care centres (GEW 2016).

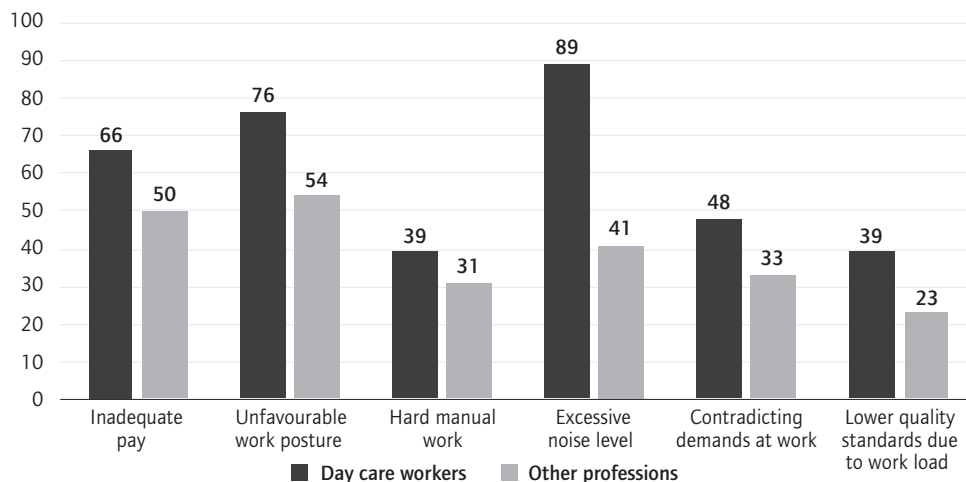
### 3.3 Working conditions

In recent years, the working conditions of day care workers have attracted increasing interest among both the political and the academic community, leading to a couple of new comprehensive studies (for example, Institute DGB-Index Gute Arbeit 2015; Schreyer *et al.* 2014; Schreyer and Krause 2016; Spieß and Storck 2016). All these studies have drawn an ambiguous picture of working conditions in day care centres. On

the one hand, they found that most day care workers have a high degree of satisfaction with their job, based on very strong identification and a strong intrinsic motivation with their pedagogical work. On the other hand, many day care workers claim a lack of societal acknowledgement and esteem. Although day care workers have received more attention in public discourse due to the enhancement of pre-school education, this new appreciation is largely rhetorical and has not yet materialised in better pay and working conditions.

On the contrary, most day care workers think that in comparison to many other professions their pay is inadequate (figure 4). According to the 2018 public sector collective agreement, skilled childcare workers (Erzieher/innen) in public facilities earn a gross salary of between €2 500 and €4 000 per month. For less qualified childcare assistants (Kinderpfleger/innen) the monthly pay varies between €2 100 and €3 100. Only the heads of day care centres are usually able to earn above €3 000 and up to more than €5 000 in exceptional cases, at very large day care centres. Day care workers in church-run facilities are usually paid similar rates to their public sector colleagues, while pay in other non-public centres is often below that level (Eibeck 2014; Schreyer *et al.* 2017). As the bulk of day care workers earn between €2 000 and €3 000 (Stoll *et al.* 2014), their pay is far below, for example, the pay of teachers in primary education (see Chapter 4) or the pay of skilled workers in manufacturing.

Figure 4 Survey on working conditions of day care workers and other professions 2012–2014 (%)



Source: Institute DGB-Index Gute Arbeit 2015.

Apart from pay, day care workers are affected above the average by physically and psychologically demanding working conditions (Klaudy *et al.* 2016, figure 4). This is the case for hard manual work, work in an unfavourable working posture and work under very noisy conditions. In addition, day care workers are often confronted with socially challenging and contradictory demands. As a result, their risk of psychosomatic or psychological damage, such as burnout, is also above average (Jungbauer and Ehlen

2013). Finally, many childcare workers report the fact that, because of workload and pressure, they have to lower their sights regarding quality standards (figure 4). The latter is closely linked with a comparatively low ratio of childcare workers to children, which has only slightly improved in recent years (Meiner-Teubner *et al.* 2016; Statistisches Bundesamt 2018), despite the overall increase of resources in the sector.

### 3.4 Current developments in collective bargaining

For a long time collective bargaining in day care centres was barely visible. Public centres were just one of many sub-branches covered by the TVöD. The same occurs for non-public day care centres, which were covered by the collective bargaining system of the relevant welfare organisations and usually had no separate negotiations.

This situation changed during the 2000s when public day care centres started to play a larger role in public sector negotiations, especially for trade union mobilisation and industrial action. Traditionally, public sector collective bargaining in Germany was dominated by public transport and rubbish collection, which were the two sub-branches with the highest and most militant union membership (Dribbusch and Schulten 2007). As these two sub-branches were largely separated from public sector collective bargaining due to economic restructuring and privatisation, other groups of workers – especially from social and health care branches – took centre stage (Keller 2016).

Furthermore, day care workers started to express dissatisfaction with their employment and working conditions, which did not coincide with the increasing societal demands for high quality pre-school education. When in 2005 the collective bargaining parties agreed on a fundamental reform of the public sector pay system it also affected the wage classifications of public day care workers. After the bargaining parties concluded a new wage system for public day care workers during regular public sector bargaining, they agreed to have, for the first time, an additional separate bargaining round for day care in 2009.

#### **CHANCEN FÖRDERN** **ANERKENNUNG FORDERN**

The trade unions had already launched a broad public campaign in 2007 under the slogan 'Improve opportunities – demand recognition!' ('Chancen Fördern – Anerkennung Fordern!'), which argued that better pre-school education needs better pay and working conditions for day care workers.

In the 2009 collective bargaining round, the unions demanded a substantial upgrading of day care workers' pay, as well as various measures to improve health and safety in the workplace (see Kerber-Clasen 2014, 2017a; Kutlu 2013). After the negotiations failed, because – in the unions' view – the public employers did not make an adequate offer, the unions called for industrial action and organised the first nationwide strike of day care workers. The strike was even more remarkable as it took place against the background of the global economic crisis, when other sectors were following a strategy

of bargaining concessions in order to safeguard jobs. However, as the German public sector was not really hit by the crisis, the unions were able to pursue an offensive bargaining round for day care workers, which finally led to an agreement on the introduction of a new separate wage table for education and social workers within the TVöD. For day care workers the new wage table led to wage increases of between €100 and €400 per month (Bispinck 2010). Although the results of the first separate bargaining round for day care workers were widely received as a success for the unions, it was clear that this would only be the first step.



Therefore, in 2014 the unions renewed their campaign under the slogan 'That's really good – now let's have a pay rise [lit. 'upgrade now']!' ('Richtig gut – Aufwerten jetzt!'), focussed around the message that good work requires good pay. For the 2015 bargaining round the unions demanded a further substantial upgrading of day care workers pay of – on average – about 10% (Pieper and Wegner 2015).

The second separate collective bargaining round for day care workers in 2015 was again conflictual and led to another nationwide strike lasting about four weeks (Kerber-Clasen 2017b; Kutlu 2015). After the union members rejected an offer arising from arbitration, a final agreement was reached which led to wage increase of about 3% for childcare assistants, 4.4% for skilled day care workers and up to 11% for heads of day care centres (Bispinck 2016). For many day care workers this result fell far below their expectations, so the upgrading of day care workers' wages is certain to remain on the trade union agenda.

Several lessons can be drawn from recent experiences in day care centres for the future pattern of collective bargaining in the public sector (Kerber-Clasen 2017a, 2017b; Kutlu 2013, 2015; Pieper and Wegner 2015). First of all, a strike in a day care centre does not damage the employer economically, but does harm the clients, in this case the parents. Therefore, it was extremely important for the unions to garner the support of parents' organisations and of wider public opinion. The trade unions were very keen to announce the strikes in advance in order to give parents the chance to make other care arrangements. They also directly addressed parents' organisations and were in many cases successful in gaining their support. Secondly, the unions were largely able to gain public support as they linked the working conditions of day care workers with the quality of care services and therefore emphasised the joint interests of workers and parents. Finally, the unions were able to link their demands for improvement and esteem to the overall goal of modernising childcare and pre-school education.

## 4. Primary education

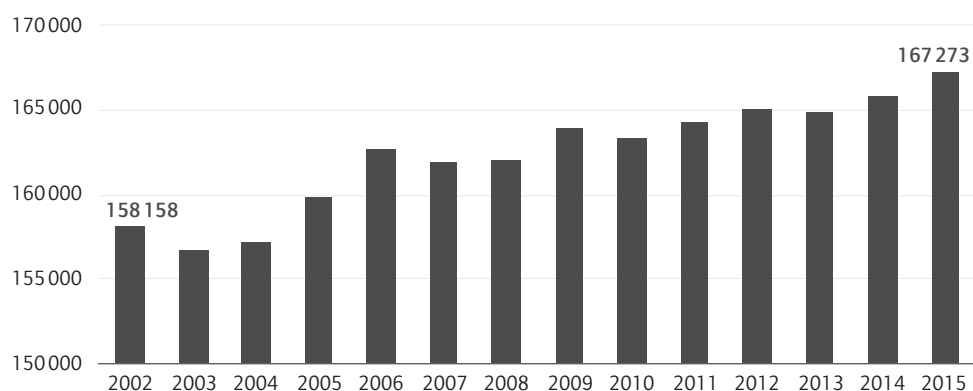
### 4.1 Profile of the sector

Public education in Germany was not affected by the crisis. On the contrary, between 2007 and 2015, public expenditure on schools rose by 21.8% to €63.25 billion (Statistisches Bundesamt 2016). However, in relation to GDP, the share of expenditure on public schools was held constant at 2.1% during this period (Statistisches Bundesamt 2016).

This is also reflected in the development of primary education in the past. In 2015, there were 15 424 primary schools in Germany with 2 715 127 students. A total of 167 273 teachers work at primary schools. Official statistics on the development of primary education reveal that the most relevant indicators for quality of education have improved in recent years. The 10% fall in the number of primary schools from 2002 to 2015 is connected to retrogressive demographic development in Germany. It corresponds to a decrease in the number of primary school students by about 14% during the same period.

Whereas the number of primary schools and students decreased, the number of primary school teachers grew by almost 6% (figure 5). Measured in full-time equivalents, the teaching staff at primary schools increased by 5.2%.

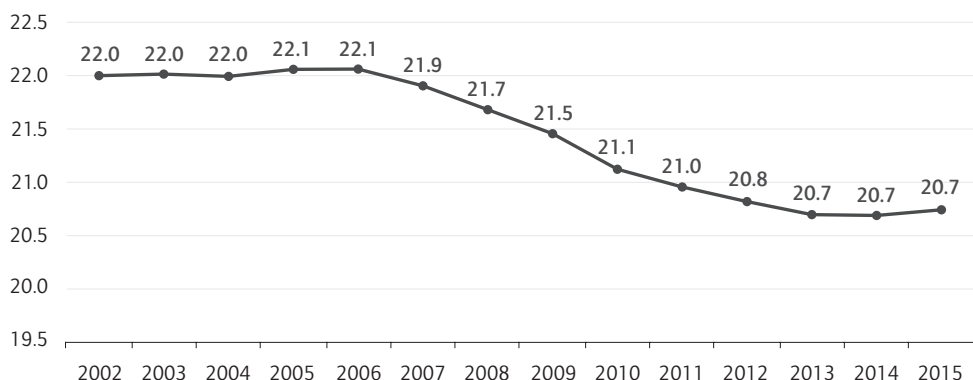
Figure 5 Teachers in primary schools, 2002–2015



Source: Conference of Federal Ministers of Education.

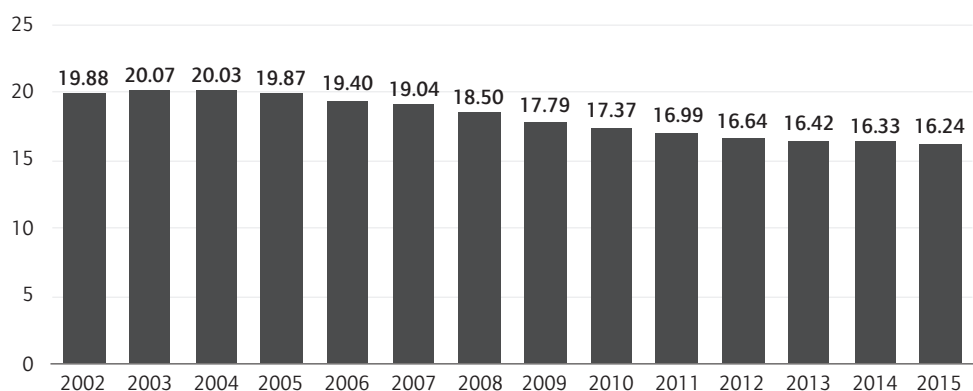
As a consequence of these developments, class sizes and students-per-teacher ratios improved (figures 6 and 7). The average class size in primary schools dropped slightly, from 22 students in 2002 to 20.7 students in 2015. Furthermore, the number of lessons taught per class and week increased from 27.5 in 2002 to 30.5 in 2015.

Figure 6 Class sizes in primary schools, 2002–2015



Source: Conference of Federal Ministers of Education.

Figure 7 Students-per-teacher ratio at primary schools, 2002–2015



Source: Conference of Federal Ministers of Education.

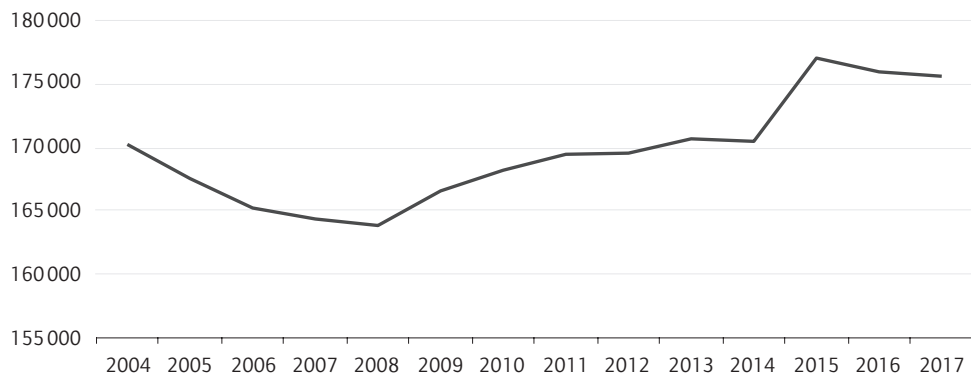
## 4.2 Industrial relations

In Germany, education policy is the exclusive competence of the *Länder* (Keller and Seifert 2015: 10; Vesper 2016: 39). Accordingly, teachers are employed by the *Länder*. About three-quarters of teachers are civil servants. The working conditions of teachers with civil service status are legally regulated by the *Länder* parliaments.

Two trade unions represent the interests of teachers. The Verband Bildung und Erziehung (VBE) within DBB organises mainly teachers with civil servant status but also, to a lesser extent, some with public employee status (Keller 2014: 393). The VBE organises around 140 000 teachers. GEW represents about 175 000 teachers with public employee or civil servant status, among them about 51 000 primary school teachers.

In contrast to civil servants, public employees have the right to strike. As a consequence, teachers without civil servant status increasingly engage in industrial action, first at the *Länder*-level, mainly over issues such as working time, workload and classifications in collective agreements. Since 2009, teachers have been participating in greater numbers in strikes within the context of nationwide collective bargaining rounds for the public sector of the *Länder*. According to GEW, these increased strike activities have boosted its membership (figure 8).

Figure 8 Membership of GEW, organisational area school



Source: GEW.

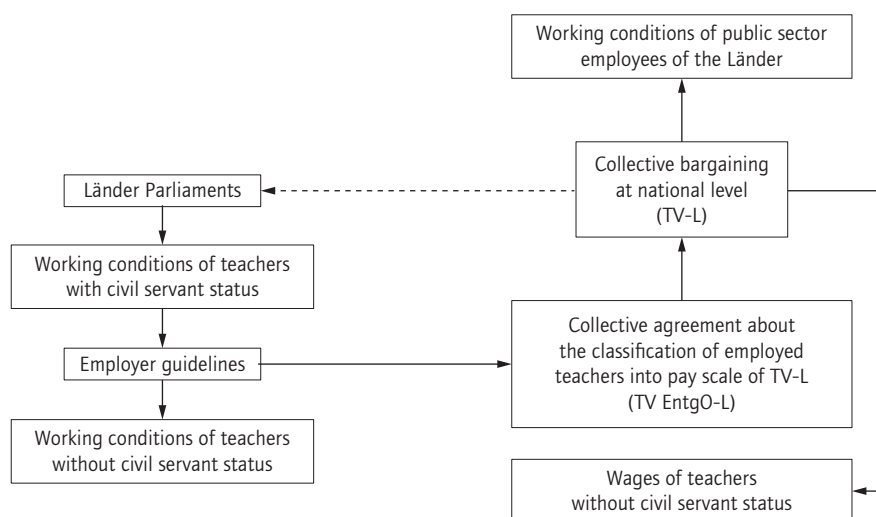
In the legislative process, public sector trade unions have only limited participation and consultation rights. But they have several informal channels of influence, such as lobbying or influencing public opinion (Keller 2010: 126–28). Thus, for teachers with civil service status, there is no collective bargaining. However, the wages of teachers with civil service status are loosely connected to the collective bargaining system for the public sector of the *Länder*, which takes place prior to the legislative process. Trade unions usually demand that collective bargaining outcomes for the public sector of the *Länder* are applied to civil servants. Nevertheless, the *Länder* are free to decide. Because civil servants do not have the right to strike, trade unions cannot enforce the legislator to accept their demands by industrial action. Some of the *Länder* comply with the demand, others do not.

Determination of the working conditions of teachers with public employee status is more complicated. Only recently did trade unions manage to obtain a collective agreement for teachers without civil service status within the TV-L (see section 4.4). However, their working conditions are partially coupled with those of teachers with civil servant status by ‘employer guidelines’ decreed by the *Länder*. As a consequence, the working time of employee-status teachers follows the corresponding legislative regulation for civil servants. Before 2016, the wages of employee-status teachers were determined by a reference in the ‘employer guidelines’ to the pay scales of the TV-L. Hence, although the TV-L did not directly cover employee-status teachers, their wages followed the TV-L and their classification in the pay scale of the TV-L followed the classification of civil servants. The classification of employee-status teachers in the TV-L pay scale,



however, corresponds to the qualification levels of comparable civil servants as follows: employee-status teachers who, for example, would be paid according to pay level A13 if they were civil servants are paid according to pay level E13 of the TV-L (with the exception of primary school teachers without civil servant status, see section 4.3). This classification scheme was recently codified by a special collective agreement (Tarifvertrag über die Eingruppierung und die Entgeltordnung für die Lehrkräfte der Länder, TV EntgO-L), which is part of the TV-L. Thus, the ‘employer guidelines’ were turned into a collective agreement on the classification of teachers without civil servant status in the TV-L pay scale (see section 4.4). Figure 9 illustrates how the working conditions of teachers are set.

Figure 9 Setting of working conditions of teachers with and without civil servant status



Source: Authors' composition.

The different treatment of teachers with and without civil service status leads to other differences, apart from employee-status teachers' lower gross wages. Because of civil servants' specific legal status, the working conditions of teachers with and without civil servant status differ substantially with regard to net wages, pensions, health care and employment protection. As a rule of thumb, the difference in net wages between civil servants and public employees with the same gross wage is about 20%, in favour of civil servants. Since primary school teachers are paid according to E11 and some in Saxony even according to E10<sup>4</sup> (see below) instead of E12, the disparities are even wider.

4. Interview with GEW, 15 March 2017.

### 4.3 Working conditions

Since radical transformations such as privatisation and market liberalisation are largely absent from the German school system, changes have been much less dramatic than in other public sectors. This is particularly true for the relatively stable industrial relations and the still high degree of centralisation of collective bargaining for the public sector of the *Länder*.

Although the number of teachers at primary schools has increased, their working conditions have not correspondingly improved. However, not all of the changes in teachers' employment conditions since the 1990s can be traced directly to budgetary restrictions; some are the result of education policy reforms (for example, the introduction of inclusion, integrated comprehensive schools and all-day schooling), partly in response to poor results in international evaluations of the German education system. As a consequence, teachers' work intensity has increased (Mußmann *et al.* 2016; Vesper 2016: 60). One reason for this is that primary school teachers' range of tasks has not only been substantially extended, but has also become much more demanding. The inclusion of disabled children and the integration of children with learning disabilities, together with migrants and refugees have increased the need for individual support and consultation.<sup>5</sup> Other developments, however, are more directly linked to fiscal consolidation. It has become common practice to hire young teachers only for a fixed term, creating a more flexible and cheaper pool of replacement teachers (Keller and Seifert 2015: 10). The share of teachers without civil servant status (see below) on temporary contracts is 16.8% (Hohendanner *et al.* 2015: 46). These teachers are often employed only for the school year, that is, from the end of the summer holidays to the beginning of the next summer holidays. For the remaining time, they have to apply for social assistance because they are not entitled to unemployment benefits, having been employed for less than twelve months. The Federal Labour Office reported for 2016 that during the summer holidays about 5 800 teachers more than in the other months registered as unemployed. In 2015, this number had reached 7 000. Young teachers are especially affected: the share of teachers under 35 years old in this group of temporarily unemployed teachers amounts to 64%. Remarkably, this practice is particularly widespread in some of the most prosperous *Länder*, such as Baden-Württemberg, Hesse, Rhineland-Palatinate and Bavaria (Bundesagentur für Arbeit 2016).

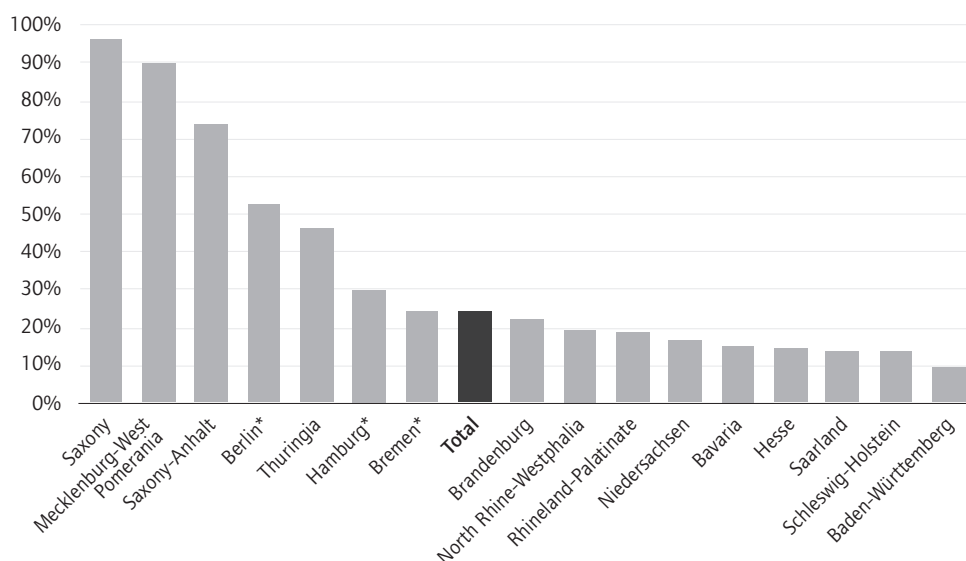
One of the major issues concerning teachers' working conditions is that after German reunification the new *Länder* decided not to grant their teachers civil servant status and hired new teachers only as public employees (Keller and Seifert 2015: 10).<sup>6</sup> In addition, Berlin stopped granting civil servant status to new teachers in 2004. Meanwhile, Brandenburg, Thuringia, Mecklenburg-West Pomerania and – partially – Saxony-Anhalt have started to hire teachers as civil servants. In Saxony and Mecklenburg-West Pomerania teachers are still almost exclusively public employees. In Saxony-Anhalt, nearly three-quarters of the teaching staff are public employees (figure 10).

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5. Interview with GEW, 15 March 2017.

6. A small share of teachers have always been hired as regular employees when they lacked the specific requirements for becoming civil servants (age limit, health requirements, qualification levels).

Figure 10 Share of employee-status teachers in 2015 (%)



\* Non-pedagogical staff included in total population.

Source: Statistisches Bundesamt, special evaluation of GEW.

In 2015, 175 605 persons worked at primary schools (167 273 teachers), of whom 127 680 were civil servants and 47 925 public employees (Statistisches Bundesamt 2015). Primary school teachers without civil servant status are especially disadvantaged. Even with civil servant status, primary school teachers are paid less than most teachers at secondary schools. Primary school teachers are remunerated according to salary level A12 instead of A13, as at secondary schools, although qualifications and occupational requirements are generally comparable (Kocher *et al.* 2016: 25–28). In Bavaria, for example, the gross starting wage of a secondary school teacher with civil servant status is €4 113, whereas a primary school teacher with civil service status receives only €3 439. Furthermore, in contrast to secondary school teachers, employee-status primary school teachers are paid according to one pay level of the TV-L below the wage level A12; that is, according to E11 instead of E12. In Baden-Württemberg, the gross starting wage of an employee-status primary school teacher is €3 202. Thus, primary school teachers without civil servant status are disadvantaged twice over.

Another change in working conditions is connected to the already mentioned reform of German federalism in 2006. The reform transferred regulatory competence for civil servants' employment conditions from the federal level to the *Länder*. This resulted in differing working conditions across different *Länder* for teachers with and without civil service status. Teachers without civil servant status are affected because the working time and other working conditions (except pay) of regularly employed teachers are coupled to those of teachers with civil servant status. As a consequence, gross starting wages vary between €3 540 for a primary school teacher with civil servant status in Hamburg and €3 191 for a primary school teacher with civil service status in

Rhineland-Palatinate. In periods of high demand, this can favour teachers, especially those with coveted subject combinations. *Länder* compete with each other for teaching staff on the basis of working conditions. Competition between *Länder* for teaching staff is one reason why some *Länder* have decided to hire teachers as civil servants again. Tellingly, Berlin started to grant civil service status for teachers who move to Berlin from another *Land* where they already had civil service status. Moreover, they are paid according to the salary of the *Land* where they worked previously. Furthermore, Saxony recently started to discuss whether new teachers should be employed as civil servants, although only temporarily, for a period of five years. This is because Saxony cannot find enough new teachers for open positions.

#### 4.4 Current developments in collective bargaining

One of the main demands of employee-status teachers was to be integrated into the TV-L – and thus to be directly included in collective bargaining. As explained above, before 2016 the working conditions of teachers without civil servant status were regulated by unilateral ‘employer guidelines’, which coupled the working conditions of employee-status teachers to those of teachers with civil servant status. A reference in the ‘employer guidelines’ linked the wages of employee-status teachers to the pay scales of the TV-L. Thus, although the TV-L did not directly cover employee-status teachers, nevertheless, their wages followed the TV-L while their classification in the TV-L pay scale followed that of civil servants (see section 4.2).

For more than a decade, GEW has been pushing for the inclusion of employee-status teachers in the TV-L. After initial talks about this matter during the collective bargaining round in 2009, the TdL refused to continue negotiations about integrating employee-status teachers into the TV-L. In 2011, 2013 and 2015, the TdL offered a collective agreement on the integration of employee-status teachers into the TV-L, but GEW and ver.di rejected it on each occasion. The reason was that the *Länder* insisted on maintaining the coupling of the pay scales of employee-status teachers with those of civil servants. In practical terms, this offer would merely have transposed the ‘employer guidelines’ into a collective agreement. Since the working conditions of civil servants are determined unilaterally by the *Länder* this would have meant that the *Länder* would still set the working conditions of employee-status teachers, too, generally without trade union participation. In addition, although the employers granted an ‘alignment allowance’ of €30 per month, the two-fold discrimination against primary school teachers would not have been eliminated.

Moreover, accepting the offer would have obliged the trade unions to respect the so-called ‘peace obligation’ (*Friedenspflicht*), which prohibits strike action as long as a collective agreement is in force; in this case, for four more years. Despite GEW’s and ver.di’s rejection, in 2015 DBB accepted TdL’s offer and signed the new collective agreement on the integration of employee-status teachers into the TV-L (TV EntgO-L). Regardless of the rejection by the other public sector trade unions, the *Länder* decided to apply the collective agreement to all employee-status teachers. However, according to German collective bargaining law, the collective agreement does not formally apply

to members of GEW or non-unionised teachers. Hence, if collective bargaining leads to a deterioration of working conditions, it may not be applied to GEW members. Yet, the *Länder* intended to bypass this provision, implementing the new collective agreement by referring to it in the individual employment contracts of newly employed teachers. In 2017, GEW finally accepted the offer of the *Länder*. In exchange, the employers agreed to introduce a new, additional experience level 6 within the TV-L pay groups applicable to employees with academic education, which raises the wages of employee-status teachers with work experience of 15 or more years. Thus, after years of struggle, the trade unions succeeded in obtaining a collective agreement for employee-status teachers. However, the compromise is rather an ex-post codification of the ‘employer guidelines’ in the form of a collective agreement, which basically reproduces the status quo. In exchange, employee-status teachers are now formally covered by the TV-L. The double discrimination against primary school teachers persists. Accordingly, the unequal remuneration of primary as compared with secondary school teachers remains an important issue. As mentioned above, whereas secondary school teachers are paid according to wage group A13 (E13), primary school teachers are paid according to wage group A12 (E11). Differences in gross starting wages can be up to €695.



The different classification of primary and secondary school teachers is not new; in other words, it is not the result of changes in recent years. However, trade union activities around this issue are interesting because they make reference to discursive frameworks such as recognition, upgrading and gender equality – which trade unions have also achieved in other public sectors. In 2016, GEW started a campaign under the heading ‘JA 13 – weil Grundschullehrerinnen es verdienen’ (YES 13 – because primary school teachers deserve it) in order to lift primary school teachers’ wages to A13 grade.

The trade unions’ lobbying efforts have shown their first important results. Recently, Berlin and Brandenburg decided to upgrade present and future primary school teachers from A12 to A13 starting in 2019. In addition, North Rhine-Westphalia announced that it would follow their example. The conditions for this success were favourable since the current and future projected demand for primary school teachers is massive. A recent study calculated that, under current conditions, the shortage of primary school teachers will reach about 35 000 teachers by 2025 (Klemm and Zorn 2018).

## 5. Hospitals

### 5.1 Profile of the sector

At the end of 2016, Germany had 1 915 hospitals with around 501 000 beds (for the following see: table 3). Hospital capacities in Germany have been steadily declining since the early 1990s. The total number of hospitals fell by more than 20%, while the number of beds decreased even faster, by about 25%. At the same time there was a continuous rise in the number of hospital admissions, paralleled by a drop in the average length of stay, from 14 days in 1991 to 7.3 days in 2016.

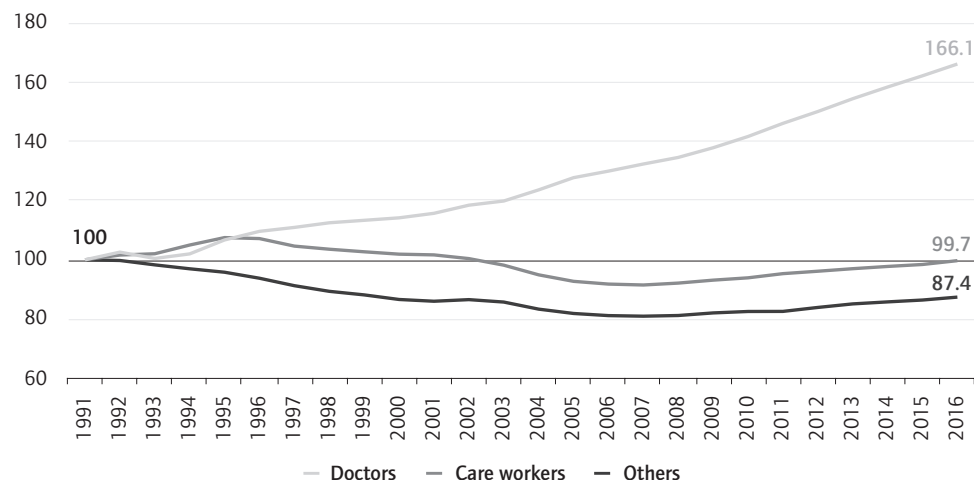
Table 3 The German hospital sector – key figures, 1991 and 2016

	1991	2016	Change 1991/2016
Number of hospitals	2 411	1 915	– 20.6 %
Number of beds	665 565	498 718	– 25.2 %
Hospital admissions	14 576 613	19 532 779	+ 34.0 %
Average length of stay	14.0 days	7.3 days	– 47.9 %
Number of employees			
total	1 111,625	1 215 581	+ 9.4 %
full-time equivalents	875 816	880 519	+ 0.5 %

Source: Statistisches Bundesamt 2017b, WSI calculations.

There are around 1.2 million employees working in the German hospital sector. These account for just over a fifth of all employees in the German health sector, which in total employs some 5.5 million staff. Given the increasing number of part-time hospital workers, overall employment in hospitals measured in full-time equivalents amounts to about 881 000 full-time jobs. All in all, hospitals are a female-dominated sector (Statistisches Bundesamt 2017b): around three-quarters of all hospital workers are women. Among care workers the proportion of female workers is even higher, at 85%, while among doctors it is almost half (47%). About three-quarters of all doctors work full-time, while only half of care workers do so.

Figure 11 Employees in German hospitals, 1991–2016



In full-time equivalents, 1991 = 100

Source: Statistisches Bundesamt 2017b, Simon 2014, WSI calculations.

From the mid-1990s until the second half of the 2000s, there was a steady fall in the number of employees in hospitals (figure 11). The sharpest decline was among non-medical service employees, whose jobs have often been contracted out to other companies. There was also a significant decline in the number of care workers, which reached its low point in 2007. Since then the amount of care staff has started to

increase again, and in 2016 reached almost the level of the early 2000s. The only group of hospital employees that has experienced a sustained increase in numbers is doctors, whose numbers have increased by more than 66% since the early 1990s.

Over the past three decades, the German hospital sector has been subjected to a process of commercialisation and privatisation (Schulten and Böhlke 2012; Greer *et al.* 2013). The commercialisation of hospital services has been implemented mainly through a fundamental change in the mode of hospital financing (Simon 2000, 2016). Up until the early 1990s, all operational costs were financed in line with the ‘cost coverage’ principle, according to which the health insurance funds, which collect revenue in the form of social insurance contributions, reimbursed almost all expenditures incurred by hospitals. Since then a number of healthcare reforms have, first, capped hospital budgets and subsequently shifted hospital financing to the so-called Diagnosis Related Group (DRG) system, under which the costs of a hospital admission are no longer reimbursed on the basis of per diem costs but according to a uniform flat-rate payment determined by a cost schedule for that patient’s Diagnosis Related Group, irrespective of the actual treatment and costs incurred by the individual hospital.

The abolition of full cost-based reimbursement, the establishment of capped budgets and the introduction of the DRG system meant that, for the first time, it became possible for German hospitals to accrue large-scale profits or deficits. It also established a new regime of cost competition between different hospital providers and created the preconditions that allowed for a wave of hospital privatisations and the emergence of some new private for-profit hospital corporations. For several municipalities the privatisation of public hospitals that were in financial deficit has become an important instrument for tackling their wider budgetary problems.

Traditionally, the German hospital sector has been divided mainly into a public and a non-profit segment. While the public hospitals are mostly run by municipalities or – in the case of university clinics – by the *Länder*, the non-profit hospitals are dominated by the two major Christian churches (Protestant and Catholic), but also involve some other welfare organisations. Up until the early 1990s, Germany had only a few specialised and mostly smaller private for-profit hospitals. Since then the ownership structure of the German hospital sector has undergone a dramatic change due to an overall decrease in the total number of hospitals and an ongoing process of privatisation.

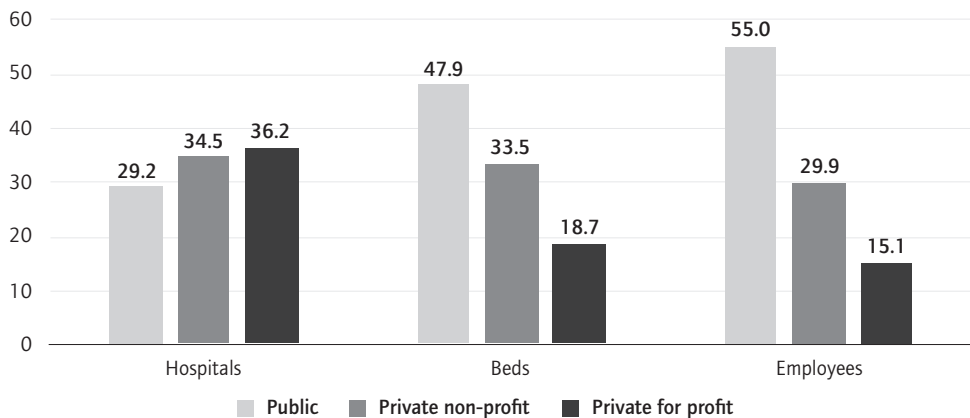
Between 1991 and 2016 the number of public hospitals almost halved, from 1 110 to 570. In the same period the number of non-profit hospitals decreased by nearly 30%, from 943 to 674. In contrast, the number of private for-profit hospitals has almost doubled, from 358 to 707, and has now overtaken the number of both public and non-profit hospitals. No other country in Europe has seen such a marked process of hospital privatisation as Germany (Schulten and Böhlke 2012). The private hospital market in Germany is also fairly concentrated, as about half of all private hospitals belong to the five largest private hospital corporations: Helios, Asklepios, Sana, Rhön and Ameos.

Although privatisations have affected almost all kinds and sizes of hospitals (including one university clinic), the private for-profit segment of the German hospital sector



still covers a relatively high number of more specialised and smaller clinics. In 2016, private hospitals represented about 36% of all hospitals in Germany, but only 19% of all hospital beds and 15% of all hospital workers (figure 12). In contrast, public hospitals represented less than 30% of all hospitals, but still 48% of hospital beds and even 55% of all hospital workers. This is because most of the larger hospitals, and in particular university clinics, remain largely in public ownership.

Figure 12 Ownership structure of the German hospital sector, 2016 (%)



Source: Statistisches Bundesamt 2017b, WSI calculations.

## 5.2 Industrial relations

The three-fold division of hospital providers in Germany has also led to the emergence of three different industrial relations regimes (Brandt and Schulten 2008b; Glassner *et al.* 2015, 2016, table 4). First of all, public hospitals are still linked to the public sector industrial relations regime, with all its particular features and specific legal regulations. Most municipal clinics are still covered by the TVöD. Some public hospitals – in particular, university clinics – belong to the *Länder* and are therefore covered by TV-L. In both cases the public sector agreements include some special provisions for hospital staff, including a special pay scale for care workers.

Secondly, most non-profit hospitals adhere to the particular industrial relations regime that operates within organisations run by the Christian churches (see section 3.1; Jähnichen *et al.* 2015). In practice, however, working conditions in church-run hospitals closely follow public sector collective agreements, even though more recently this correspondence has become somewhat looser. Apart from that, non-profit hospitals which are not run by the Christian churches but by other welfare organisations, usually have company agreements either at the level of the entire welfare organisation or at the level of the individual clinic.

Table 4      **Collective bargaining structure in the German hospital sector, 2018**

Hospital provider	Collective agreements
<b>Public</b>	Nationwide public sector collective agreements for municipalities federal states
<b>Non-profit</b>	'In-house arrangements' (church-run hospitals) Company agreements (other welfare organisations)
<b>Private for-profit</b>	Company agreements for entire hospital corporation at national level individual clinics at regional or local level No collective agreement

Source: WSI Collective Agreement Archive 2018.

The private for-profit hospitals have also developed their own industrial relations regimes. After privatisation, the companies largely withdrew from the public sector agreements in order to undercut existing labour standards (Brandt and Schulten 2008). Since then, however, most private hospitals are again covered by collective agreements as a result of successful organising trade union campaigns (Dilcher 2011; ver.di 2011, 2015a). In some of the larger private hospital corporations – for example, Helios or Sana – there are nationwide company agreements that cover all clinics within the corporation. Other private hospital corporations – such as Asklepios or Rhön – conclude collective agreements only at a regional or local level, which sometimes only cover an individual clinic. There are also some private hospitals that still refuse to sign any collective agreements.

Usually, collective agreements cover all groups of workers in a hospital, who are mainly represented by ver.di, by far the largest union in the sector, organising across all types of hospital provider (Glassner *et al.* 2015, 2016). There is also a relatively well-represented occupational trade union for doctors called the Marburger Bund, which has been negotiating separate collective agreements for doctors since the mid-2000s (Martens 2008).

The diversified structure of industrial relations in the German hospital sector makes it difficult to secure equal conditions for all hospital workers. In view of the growing competition between hospital providers, there is also a need to establish a level playing field in order to prevent downward pressure on working conditions. As a consequence, the trade unions have tried to co-ordinate collective bargaining between all hospital providers and establish public sector conditions as the benchmark for all hospitals (Gröschl-Bahr and Stumpfögger 2008; ver.di 2011, 2015). However, there are still some significant differences in the labour costs structure of the various hospital providers. Considering the average annual labour costs for a care worker, public hospitals pay about 9% more than private for-profit ones (Statistisches Bundesamt 2017b, 2017c). The differences are even larger among non-medical staff (Brandt and Schulten 2008). The only exception are doctors, whom private for-profit hospitals pay on average nearly 5% more than public hospitals.

### 5.3 Working conditions

The commercialisation and privatisation of hospital services has put hospitals under permanent pressure to reduce costs in order to avoid deficits or even to generate profits. At the same time, hospitals have to cope with various challenges, such as a growing need for new investments and the increasing costs of hospital treatment. Against that background labour costs, which still account for about 60% of overall costs in hospitals (Statistisches Bundesamt 2017c), have been the focus of hospitals' restructuring strategies, aimed at improving their financial performance. Hence, the hospitals have developed several strategies to reduce labour costs, with a significant impact on working conditions in the sector (Greer *et al.* 2013; Schulten and Schulze-Buschhoff 2015).

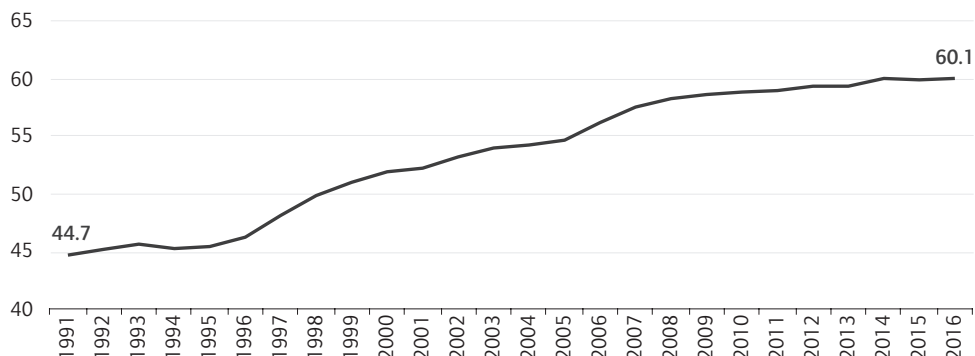
One major issue has been the contracting out of hospital services, which has become widespread over recent decades. It started in the 1990s with laundry and cleaning services but since then has been extended to many different activities, such as pharmacies, catering, and laboratory services, but also medical services, such as radiology or sterilisation (Blum *et al.* 2013). There are at least three different forms of outsourcing. First, hospitals contract a number of external companies. The second form is that hospitals co-operate with an external facility management or service company, which delivers a package of different services, using their own staff or further subcontractors. Finally, hospitals can create their own in-house service companies. The latter have become widespread, in particular in larger hospitals (Lünenedonk 2012). For example, Helios Kliniken GmbH, which is the largest private hospital corporation in Germany, has about 68 000 employees, of whom some 10 000 are employed in separate Helios service companies (Behruzi 2014).

The most important reason for hospitals to contract out services is to cut labour costs (Blum *et al.* 2013: 45). External firms usually have much lower labour costs because they are either covered by different collective agreements or often not covered at all. In areas such as laundry, cleaning or catering the labour cost differences between hospitals and external firms can be up to 25–30% (Lünenedonk 2012: 11). The same is true for hospitals' in-house service companies, which are also often not covered by collective agreements, leading *de facto* to the establishment of a two-tier employment system within the hospital sector. All in all, the process of contracting out has been accompanied by a significant deterioration in working conditions and growth in precarious employment (Schulten and Schulze-Buschhoff 2015).

Since the 1990s, the increasing cost pressures on hospitals has led to significant staff cuts, not only among employees providing ancillary services, but also core care personnel (Simon 2012, see also figure 11). Although the decline of hospital staff came to a halt in 2007 and the number of care workers and other hospital workers started to increase again, this did not correspond to the faster increase of hospital cases. As a result, the ratio between patients and care staff continued to increase. While in 1991 a full-time care worker had to treat, on average, 44.7 cases, it had risen to 60.1 cases by 2016 (figure 13). The ratio was lower in public hospitals (56.5 cases) in comparison to non-profit and private for-profit clinics (64 cases) (Statistisches Bundesamt 2017a).

The ratio of hospital cases to care workers and in Germany is also one of the highest in the OECD (Böcken and Kostera 2017).

Figure 13 Average annual number of hospital cases per full-time care worker, 1991–2016



Source: Statistisches Bundesamt 2017b, WSI calculations.

The obvious understaffing of German hospitals has led to a sharp intensification of work and growing dissatisfaction, especially among care personnel (Buxel 2011; Roth 2011; Schulz 2017). According to a comprehensive survey on working conditions in German hospitals from 2014, nearly 80% of care workers think that their working conditions have deteriorated over the past five years (Bräutigam *et al.* 2014). There are two major issues behind this assessment: pay and work pressures. On pay, more than 68% of all care workers surveyed felt that they were not paid adequately for the work they do. According to another study, the average monthly pay of a hospital care worker stood at around €2 735 in 2013, significantly below the average pay in other sectors, such as manufacturing (Bispinck *et al.* 2013). In order to give care staff greater recognition, the trade union ver.di has called for every qualified care worker to earn at least €3 000 per month (ver.di news No. 7/2014).

Furthermore, nearly 60% of all care workers think that they do not have enough time to do their job, while more than half are frequently unable to take their breaks. Both are clear indicators of severe work pressures resulting from understaffing. Work pressure is also a major reason for the sharp increase in part-time working among hospital care personnel (Simon 2012). The deterioration of working conditions in hospitals causes employees to express pessimistic expectations for the future. More than 90% of all medical staff surveyed (including doctors, care workers and other medical service staff) believed that work pressure would not decrease in the foreseeable future. Finally, according to another survey, only 43% of care staff would recommend that their friends become a care worker in a hospital (Buxel 2011).

## 5.4 Current issues in collective bargaining

During the 2000s, German trade unions were actively involved in various campaigns against the privatisation and commercialisation of hospitals (Schulten and Böhlke 2012). After most of these anti-privatisation initiatives had failed the unions changed their strategy and focussed more on collective bargaining by setting two main priorities (ver.di 2011; Greer *et al.* 2013). Firstly, the unions tried to ensure that the growing number of private for-profit hospitals would be covered by collective bargaining and provide similar conditions to those laid down in the public sector collective agreement. Trade unions also started to question the special industrial relations status of church-run companies and tried to negotiate genuine collective agreements in non-profit hospitals. While the unions generally have been quite successful in establishing collective bargaining in private clinics, genuine legally-binding agreements still remain an exception in church-run hospitals (ver.di 2015a).



The second priority was a call for more public financial resources for hospitals, accompanied by more fundamental criticisms of the commercialisation of hospital services. In 2008, ver.di started a campaign under the slogan 'Get rid of the cap!' ('Der Deckel muss weg!'), which called for the removal of the cap on hospital budgets and a more fundamental reform of the entire hospital financing system (Behruzi 2011).

The campaign came to be supported by a broad alliance of various social actors, including patient groups, hospital providers' organisations and other medical professions. In September 2008 more than 130 000 hospital employees took part in a demonstration in Berlin, the largest demonstration ever in that sector. The campaign was highly successful, leading to the Federal government setting up a special financial programme to improve care in hospitals ('Pflegesonderprogramm') for the period 2009–2011; in total this has provided about €1.1 billion, allowing the creation of about 15 300 new care jobs (GKV 2013). This new programme has enabled hospitals to at least partially compensate for the loss of care workers during the 2000s (Simon 2014).



Considering the increasing number of hospital cases, however, the newly created care jobs were not at all sufficient to solve the problems of understaffing and growing work pressure. From 2010 on ver.di started a subsequent campaign under the slogan 'Get rid of the pressure!' ('Der Druck muss raus!'). In February 2013, ver.di organised a 'personnel check'. The union visited more than 200 hospitals across the length and breadth of Germany on a single day and asked staff how many additional employees they considered would be needed to maintain services at the required standard. Based on this, ver.di calculated that there was a shortage of 162 000 full-time hospital employees in Germany, among them 70 000 care workers (Paschke 2013).

The lack of hospital staff has become particularly prominent during night shifts. On the night of 5/6 March 2015 ver.di visited 238 hospitals simultaneously in order to analyse the situation of the hospital staff. As a result of its evaluation, ver.di produced a 'night shift report', which came to the conclusion that during night shifts two-thirds of all care workers had to oversee a single hospital ward on their own (ver.di 2015b).



From 2013 on, ver.di continued under the slogan 'More of us is better for everyone!' ('Mehr von uns ist besser für alle!'), which put the relationship between the number of care workers and the quality of hospital treatment at the core of its campaign. While agitating around the fact that understaffing might lead to serious problems for patients, ver.di started to demand not only more personnel but a legal determination of minimum staffing requirements.

In addition, the union also addresses individual hospitals at the local and regional level with concrete demands for more hospital staff. In 2015, the union registered a notable success when it concluded a groundbreaking collective agreement at the Berlin university clinic Charité, which is the largest university clinic in Europe, with more than more than 13 000 employees. Having already gone on strike in 2006 and 2011 in order to prevent staff cuts, in 2015 Charité workers held a new strike, lasting ten days, in order to reach a new collective agreement on more staff and concrete regulations for minimum staff requirements at the university clinic (ver.di Berlin-Brandenburg district 2017; Hedemann *et al.* 2017). Finally, ver.di and Charité concluded a new 'collective agreement on health protection and minimum staff requirements' (Tarifvertrag über Gesundheitsschutz und Mindestbesetzung im Krankenhaus), which became the first collective agreement in Germany to lay down concrete provisions on minimum staffing of care workers in some functional medical areas (such as surgery, anaesthesia and psychiatry). Furthermore, the agreements define new criteria and procedures for tackling work overload; established a fund of €300 000 for every six months in order to finance measures combatting work overload; and set up a joint health committee – composed of union and management representatives – to monitor their implementation and decide on concrete measures to mitigate work overload.

For ver.di the new collective agreement at Charité became the model that should also be implemented in other hospitals. In early 2017 the union started a pilot campaign in the federal state of Saarland, where it called for a new branch-level collective agreement on the reduction of work pressure (Tarifvertrag Entlastung), which is supposed to cover all groups of hospital providers, including public, non-profit and private for-profit hospitals (Windisch 2017). Throughout the year, the union organised various demonstrations and warning strikes, including the first warning strike ever at a Catholic hospital in Germany (ver.di Bezirk Region Saar Trier 2017). In July 2017, ver.di decided to extend the campaign to selected public and private hospitals in seven further *Länder* with a special focus on university clinics (ver.di 2017a). Especially in larger cities the union campaigns for more hospital staff won the backing of local alliances supported by representatives from medical and patient organisations,

political parties and other civil society organisations. In the cities of Berlin and Hamburg, these alliances have already started to organise a local referendum for more staff in the local hospitals.

The ongoing trade union campaign has already led to a few new collective agreements at the level of individual hospitals. One remarkable example is a new collective agreement on the reduction of workload at the Gießen-Marburg university clinic, which is the only privatised university clinic in Germany and now part of the private hospital corporation Rhön AG. Among other things, the agreement foresees the hiring of about 100 new care workers and new procedures to tackle work overload, with the participation of the works council and trade union. Moreover, the agreement provides a job guarantee for all care staff during the next five years (ver.di 2017b). In 2018 ver.di reached a couple of similar agreements at the university clinics of Düsseldorf, Essen, Augsburg, the university clinic of the federal state of Saarland as well as for the university clinics of the federal state of Baden-Wuerttemberg (ver.di 2018a). In all agreements the hospital providers agreed to hire additional care staff.

With its campaign against the lack of resources and staff in German hospitals ver.di has been highly successful in bringing the issue onto the political agenda. The demand for legal minimum staffing levels has become widely discussed within other health care organisations, as well as by all the major political parties (Simon 2014). The need for additional staff in hospitals has even been officially recognised by the German government. In 2014, a commission of experts was set up by the federal government and governments of the constituent federal states with a remit to draw up a concrete reform plan by the end of 2014 for the future financing of German hospitals and the provision of an adequate number of hospital employees. In March 2017, the commission presented its results, officially acknowledging that ‘sufficient care staff in hospitals is necessary for the quality of patients’ treatment and the working conditions of the employees’. Moreover, the commission argued in favour of legal minimum requirements for care staff ‘in areas of particularly intensive care services’ and demanded that the health insurance funds, together with the German Hospital Federation (Deutsche Krankenhausgesellschaft) develop a detailed concept by July 2018 (Bundesgesundheitsministerium 2017).

After the current German government formed by the Christian Democrats and the Social Democrats had announced an enlarged reform agenda for German hospitals in its coalition agreement from spring 2018 (CDU, CSU and SPD 2018), the German parliament finally adopted a new ‘Law for the Strengthening of Care Personnel’ (Pflegepersonal-Stärkungsgesetz) in November 2018 (Bundesgesundheitsministerium 2018). The new law stipulates some significant changes including:

1. The possibility for hospitals to hire additional care staff which will be fully compensated by state funding;
2. A more fundamental reform of the hospital financing system from 2020 whereby costs of hospital care staff will be excluded from the DRG system and will be fully compensated;
3. A full refunding of collectively agreed wage increases for care staff;



4. The introduction and funding of more vocational training places for care workers;
5. Better legal minimum care staff levels in areas with intensive care services.

Although the new law has been criticised by the trade unions (ver.di 2018b) and others for not going far enough, it definitively represents a reversal in the German hospital policy. The proposed changes to the hospital financing system with a partial return of the cost coverage principle in particular can be interpreted as at least a partial reversion of the former trend toward the commercialisation of hospital services.

## 6. Conclusions

The development of the public sector in Germany during the past decade differs fundamentally from the experiences of many other European countries. In many respects Germany can be seen as a forerunner of public sector reforms in Europe. Austerity driven reforms in the public sector were implemented long before the crisis, starting as early as the 1990s. During this phase, public employment decreased and working conditions deteriorated. Privatisations of public enterprises and commercialisation of public services had the greatest impact of all the measures taken. They led to a substantial shrinking of the public sector, worse working conditions and fragmented collective bargaining in the privatised sectors. In our case studies, the hospital sector is the prime example of the detrimental effects of privatisation and commercialisation on industrial relations, working conditions and quality of services.

However, the development of the German public sector changed in the second half of the 2000s. Since then, public sector employment has increased and working conditions improved. This holds true, in particular, for public care services, such as the three branches analysed in this study: day care centres, primary education and hospitals.

### 6.1 Municipality case - Day care centres

Since the so-called 'PISA shock' in the early 2000s, there has been a broadly shared view that the German education system needs substantial improvements. After initial attempts during the 1990s, when a more substantial expansion of day care centres could not be implemented due to tight public budgets, new nationwide financial programmes supported the extension of the sector from the mid-2000s. As a result, the number of day care centres increased by nearly 15%, while the number of day care workers increased by around 70%.

The transformation of the German childcare sector, however, not only had a quantitative but also a qualitative dimension, as there was a broad consensus for improving and professionalising pre-school education. However, growing societal expectations about the professional work of day care workers have been in stark contrast to their relatively poor pay and working conditions. It is exactly this contradiction that has been articulated in the trade union campaigns for a substantial upgrading of day care work. The campaign has led to new forms of industrial action and collective bargaining,

such as the two first nationwide strikes in public day care, which underline a new self-confidence on the part of day care workers. Moreover, it received broad public support, even among the affected parents. While day care workers have obtained some improvements in pay and working conditions, it is widely believed that the upgrading has to continue in order to promote the modernisation of childcare and pre-school education.

## 6.2 Primary education

Between 2002 and 2015, the number of teachers at primary schools grew, while the number of students decreased. This has led to an improvement of quality-related indicators. As class sizes became smaller, the student/teacher ratio dropped. At the same time, more lessons were taught per class.

Despite these positive developments, some problems concerning teachers' working conditions persist. Workload and work intensity have increased. Some teachers are hired on a temporary basis only for the duration of the school year. Primary school teachers get paid less than teachers at secondary schools. In some *Länder*, teachers are hired as public employees without civil servant status. However, the two latter trends have been halted and even reversed.

Concerning industrial relations, in contrast to civil servants, employee-status teachers have the right to strike. This has led to a higher participation of teachers in industrial actions, which has resulted in a growing trade union membership among teachers. Trade unions have managed to integrate employee-status teachers in the collective agreements for the *Länder*. However, this is only a partial success because it transposes the 'employer guidelines' – set unilaterally by the *Länder* – into a collective agreement. Thus, the compromise between employers and trade unions in fact reproduces the status quo. Successful trade union campaigns – especially the one to establish equality between primary and secondary school teachers, 'JA13' – are framed around the issues of gender equality, recognition and upgrading of educational work. The successes of trade unions in improving working conditions are rooted in a favourable nexus of circumstances: the shortage of teachers under conditions of 'competitive federalism', which results in competition for scarce teachers between the *Länder*.

## 6.3 Hospitals

Since the 1990s hospitals in Germany have faced a broad wave of privatisation and commercialisation, fostered by a new system of hospital financing that abolished the former 'cost coverage' principle and made it possible for hospitals to accumulate profits or deficits. As commercial success became of growing importance, hospital providers were given a strong incentive to reduce labour costs, which are the largest cost factor in the sector. As a result, many hospital activities were contracted out and overall staff were reduced, including the number of care workers. Although the decline of hospital staff was halted in 2007 and the number of care workers and other hospital workers

started to increase again, this did not correspond with the much faster increase of hospital cases. As a result, the ratio between care staff and patients continued to worsen.

Considering the influence of industrial relations, the development of the German hospital sector is an example of how disputes and struggles for good working conditions have a major impact not only on the quality of services, but also on the more fundamental driving forces of the sector. Commercialisation has been the main driving force in the German hospital sector for more than 20 years, but it has produced neither adequate services nor acceptable working conditions. Therefore, the struggles within hospitals have always been linked directly to a more fundamental critique of the logic of commercialisation (Décieux 2017). The various union campaigns for more staff and better working conditions have made a major contribution to reversing the trend and bringing more resources into the hospital system. Thus, industrial relations have become an important driver of the necessary modernisation of hospital services. As collective bargaining in the sector is fairly fragmented and divided among different groups of hospital providers it could only set good examples and practices, which then have to be universalised through new regulation by the state.

## 6.4 Comparison of the sectors

There are several commonalities in the development of the three sectors analysed in this study. First of all, all three sectors have faced an expansion of employment since the second half of the 2000s. In the case of hospitals, this is a reversal of the former trend towards staff cuts. In the case of day care centres and primary education, this is a continuation and partly an acceleration of a long-term trend.

Secondly, the increase of employment is in all three sectors related to the quality of services. In the case of day care centres and primary education, there is a widespread public view that these sectors need upgrading in order to improve the performance of the German education system. In the case of hospitals, it has become obvious that the continuous worsening of the ratio between care workers and patients has detrimental effects on the quality of hospital services.

Thirdly, in all three sectors trade unions have run relatively successful campaigns for the improvement of pay and working conditions or – in the case of hospitals – for more staff. These campaigns have explicitly articulated the link between working conditions and service quality. As a result, the unions have received large-scale support from the broader public and have been able to create new strategic alliances with users of public services, such as parents or patients. Moreover, in all sectors, the campaigns have generally gone hand-in-hand with a proactive demand for care and educational work as a public service and, in the case of hospitals, with a fundamental critique of commercialisation. Trade unions managed to couple popular with trade union demands. A favourable public discourse is a particularly effective bargaining chip when negotiating with public employers, i.e. accountable politicians. In this way, public support enabled trade unions to effectively use collective bargaining in order to modernise working conditions in the three public sectors, thus, contributing to the improvement of the quality of public services.

**Table 5     The role of trade union campaigns in modernising German public services – main findings**

Sector	Employment conditions	Public discourse on the quality of services	Trade union campaigns
<b>Day care centres</b>	High work pressure; Relatively low pay	Higher expectations; Need to improve services	Upgrading of childcare workers' profession via increasing pay
<b>Primary education</b>	High work pressure; Income and status inequalities among teachers	Higher expectations; Need to improve services	Upgrading of teachers' profession in primary education via increasing pay
<b>Hospitals</b>	High work pressure; Highly understaffed	Bad treatment of patients; Need to improve services	More care staff and binding legal minimum care staff levels

Source: Authors' composition.

However, trade union campaigns and strategies alone cannot explain the different trajectories of developments in Germany and other European countries. What also has to be taken into account is the fact that, in contrast to many other European states, in Germany the financial crisis did not lead to a debt crisis. Thus, budgetary constraints were much less severe than in countries with skyrocketing public debt. Accordingly, there were no external interventions from EU institutions of the kind that in other EU member states forced crisis-hit countries to cut public expenditure to the detriment of public services. Furthermore, the German economy not only recovered from the economic downturn relatively quickly but entered an ongoing economic upswing. Since 2010, GDP, tax revenues, social contributions and employment have all been growing (Keller 2016: 208). These favourable macroeconomic conditions have broadened the fiscal leeway of the public authorities and allowed for more public spending on public services. In comparison with the other cases presented in this volume, the absence of rigid fiscal constraints in the German case created conducive conditions for trade unions to put forward their demands.

Taking into account other current trends, such as the widespread public scepticism towards privatisation or the remunicipalisation of previously privatised public services (Matecki and Schulten 2013), the developments analysed in this study can be understood as part of a more general trend against the public sector retrenchments of the past. As the hospital sector shows, public services are particular public goods that cannot simply be commodified, at least not without generating resistance. Apparently, privatising and liberalising public services creates counter-movements. The emergence of these counter-movements might point to limits on the commodification of public services. The same applies to austerity measures that have led to a decay of public services.

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