

Of similarities and divergences : why there is no continental ideal-type of “activation reforms”

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Résumé

On s’attendrait, en raison du classement ordinaire de l’Allemagne et de la France dans la catégorie du « modèle bismarckien », ou encore, dans le « type conservateur-corporatiste » de Esping-Andersen, à ce que ces deux pays forment un « type bismarckien » de stratégies d’activation, par rapport à la stratégie libérale et à celle des pays scandinaves. Avec le recul de 20 ans, on s’aperçoit que cette prédiction est empiriquement fautive. Les deux pays ont des caractéristiques communes, mais cela n’en fait pas les bases d’un « type bismarckien » dans le domaine. Ils ont mis en œuvre leurs réformes avec leurs propres rythmes, qui correspondent à la capacité interne des acteurs à s’entendre ou à ne pas le faire. La question de l’activation de la protection sociale est un cas qui illustre bien les sérieuses limites que l’analyse en termes de « worlds of welfare capitalism » présente, dès qu’il s’agit d’expliquer la dynamique des réformes. L’hypothèse d’un « dualisme » apparaissant chez les « bismarckiens » n’est pas plus convaincante, alors qu’on voit se développer, dans les deux pays une fragmentation des statuts. Ces conclusions sont présentées sur la base d’une analyse systématique des réformes du marché du travail, de l’assurance chômage et de l’assistance dans les deux pays depuis les années 1960.

Mots clés : activation de la protection sociale, protection sociale, comparaison France-Allemagne, bismarckisme, welfare regimes

Abstract

In matters of « activation of social protection » as in other policy areas, one would expect that three types of welfare regimes would be identifiable. However, with the hindsight of 20 years of the deployment of ‘activation strategies’, it is still impossible to draw the stylized characters of a ‘Bismarckian’ or “conservative-corporatist” type to compare with the Scandinavian and Liberal ones. In the domain, Germany and France have reformed, each with their own pace and timing, according to their institutional systems, systems of actors and political culture. They have much in common, but also persistent dissimilarities that can be ascribed to their long term history. The empirically detailed survey (from the 1960’s) contributes to confirming that a ‘broad view’ comparison leaves aside many crucial explanatory factors. It also shows the limits of an analysis in terms of welfare regimes, when it comes to explaining change and reform. Finally, both societies have implemented policies and reforms that have fostered an amazing fragmentation of situations, a much more complex situation that the simple opposition between ‘insiders’ and ‘outsiders’ is unable to capture, while it postulates a ‘dualization’ of their social protection systems.

Keywords : activating social protection, welfare, social protection, comparison France-Germany, Bismarckianism, welfare regimes

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Introduction

Beyond the rhetoric of political discourses, one of the main reforms of national social protection systems in the last twenty years has certainly been the gradual introduction of ‘activation’ strategies across an increasing number of policy fields in Europe and the USA (pensions, unemployment insurance, social assistance, family benefits, etc.). Hence, one should be careful not to limit the meaning of ‘activation’ to the most common (and inevitably vague) political meaning of the term used by politicians, i.e. the ideologically-laden view that unemployed people should be more active. The latter approach to ‘activation’ is actually a very restricted one, because reforms of employment and unemployment policies should be seen in a much wider, cross-cutting context, including the transformation of many connected areas of social protection, but also of the labour markets and of the employment norm (Lechevalier et Giraud, 2010). To tell it very shortly, ‘activating’ systems, individual programmes or policy sectors of social protection, has meant making them more ‘employment-friendly’ (including in the way they are funded) and more dependent on employment; ‘activating’ people in all sorts of individual ways has basically meant encouraging – and sometimes compelling them – to work more or to engage in various sorts of work-related activities¹. Hence it is only a short-sighted view to think that “the core element of activation is the removal of options for labour market exit and unconditional benefit receipt by members of the working-age population” (Eichhorst et al., 2008, p. 5).

It is especially interesting to compare Germany’s and France’s ‘activation strategies’ for three reasons. (1) First the comparison shows that when assessing the consequences of social policy reforms (or more broadly reforms of social protection) one has to acknowledge a shift, especially visible in countries with extensive social insurance, from the situation prevailing in the 70s and into the late 1980s: previously existing frontiers between ‘sectors’ of social protection have been increasingly blurred. (2) Secondly, for all its undeniable innovative character at the time it was introduced, the approach in terms of “the three worlds of welfare capitalism” (Esping-Andersen, 1990) has gradually shown its limits: the case in point here is the ascription of France and Germany to the same, improbable, category, which is an obstacle to understand how they reform. (3) Finally, while ‘broad view’ comparisons are very effective in stressing general trends, the reduction of diversity they entail can be very detrimental to the comparison of what really happens in various countries: a case in point here is the explanation in terms of the ‘dualization’ of social protection that is supposed to capture what has happened in ‘Bismarckian’ countries (Palier and Thelen, 2010).

An encompassing perspective on ‘activation’ has been advocated in earlier papers (Barbier, 2002, 2004a, 2006, 2008b). Here we will only survey the main points that can be drawn from a very rich literature, before comparing Germany and France systematically over a period extending from the 1960s to nowadays. We will present some conclusions that apply to all countries (in terms of the consequences of ‘activation strategies’) and, eventually, specific conclusions for Germany and France, showing their similarities and their persisting dissimilarities.

¹ In French « *des activités à caractère professionnel* » that can include all sorts of training, support, etc...; in German: „*Maßnahmen zur Aktivierung und beruflichen Eingliederung*“ – § 46 SGB III.

1. The basics of ‘activation’: a brief survey

First, despite common practice, using only the word ‘activation’ with no complement is both deceptive and meaningless: except when one is a professional politician using vague words, one normally is expected to tell what or who is or should be activated². Second, the word has been used only by experts and politicians, especially in an international comparison context in a tremendously heterogeneous way. Empirical investigations show that local actors only use the term when their programmes are explicitly labelled in such a way (a case in point is *aktivering* in Danish). For instance, after more than 20 years of ‘activation strategies’ in France, the word is practically not used by local actors and practitioners, who prefer ‘*insertion*’ (see later). In Germany, the term recurring in the legal texts is ‘*Eingliederung*’ (integration, incorporation [into employment]); ‘*Aktivierung*’ as a term has entered the legal text concerning the ‘insured’ unemployed jobseekers only from January, 2009, as the name of a specific bundle of instruments, and the legal text concerning the non-insured, whose rules for activation are the strictest, only once mentions the client’s obligation of ‘active co-operation’³ but never ‘activation’ as a programme or philosophy. Thirdly, using a broad definition of ‘activation strategies’ allows researchers not to focus on this or that piecemeal part of the global reform trend, in order to try and capture all its manifestations and the interactions and complementarities of reform in many sectors at the same time: the labour market, pensions, social assistance, insurance, and so forth. De-specialization of programmes (and policies) is an empirically documented fact⁴, when one compares the strict ‘sectoral’ specialization of the 60’s both in France and in Germany with the situation today. Reform is, in this conception, *a trend applying to the entire social protection (or welfare) systems*, a reform trend similar to those P. Pierson (2001) documented under the labels of cost-containment, recalibration and re-commodification. We suggest considering ‘activation strategies’ *as a trend of reform* that, contrary to an analysis where it is posited against cost-containment, recalibration and re-commodification (Clegg, 2007, p. 600-601), can take these very forms Pierson introduced, but differently in different countries.

Four main areas of change: discourses, promises, architecture and social rights

To be more specific in terms of ‘sectors’, it is possible to draw a list of the main areas of social protection where ‘activation’ reforms have brought significant change in the systems and in the lives of citizens/persons. There are actually four of them. [1] First, normative discourses justifying social policy, and benefit distribution in particular, have changed their tone: an ideological shift has been documented, to the effect that a common discourse now prevails everywhere, a variation in many languages and rhetoric about ‘duties’ and ‘rights’: originated in the United States⁵, the ideology contends that former recipients of benefits were too passive and now, it is justice that for the support they get they should behave actively, a discourse which is

² This is why we choose, in this text, only to use the short ‘activation’ with inverted commas; this allows to simplify and not to have to add ‘...of social protection’ or, for that matter, ‘...of the unemployed’, etc.

³ „Der erwerbsfähige Hilfebedürftige muss aktiv an allen Maßnahmen zu seiner Eingliederung in Arbeit mitwirken“ – § 2 SGB II.

⁴ Interestingly one can note, in passing, that the processes of the Open methods of coordination (OMCs) at the EU level contributed to this de-specialization, because they have influenced the intellectual framing of policies, their cognitive base. Of this phenomenon, many empirical facts testify. The very fact that the European Employment strategy was always supposed to coordinate “employment policies”, is one of them. Interestingly, the Treaty of Lisbon in German hesitates between *Beschäftigungs-* and *Arbeitsmarktpolitik* (articles 145 and following).

⁵ See, for instance the influence of the writings of Charles Murray.

essentially addressed at the unemployed and the poor. [2] Second, this discourse was universally accompanied by *three political promises* for societies and individuals: (a) poverty would be significantly reduced if people accepted to abide by their duty to work and be ‘activated’; (b) employment and in some countries, quality jobs, would be available for a greater and greater number of people (one of the most explicit slogans was the Danish one, in the early 2000’s, ‘*flere i arbejdet*’ – more in work) ; (c) what was called ‘social inclusion’ (again in a superficial international English discourse⁶) would be rewarding individuals accepting their duties and exclusion would recede. [3] Thirdly, the architecture and instruments of programmes (sometimes also the relative levels of benefits) have been more or less adapted in order to enhance the defining role of work and employment⁷. This translated for instance into restricting eligibility to benefits according to behavioural prescriptions, and sanctions, but also into the transformation of the funding of social protection (the decrease of social contributions, the introduction of ‘tax credits’ in France, etc.). Obviously, sanctions and obligations were not invented with the current ‘activation’ reforms. This is a point that some have tended to forget, analyzing transformations as if obligations were suddenly introduced where none existed. In this sense, social protection was always ‘activated’ in a traditional manner (what we will call ‘old activation’) as Kvist (2002) has justly remarked, even in the most so-called ‘de-commodified’ systems that Esping-Andersen described. For the unemployed, the obligation to be ‘available’ and to look for a job was always strongly supported in Germany and France for insured people. Hence, from the late 1980s, the reform witnessed is ‘new activation’ when compared to the previous rationale. In this new trend, some countries came late, some were among the first to introduce new regulations, as the USA and France, around 1988 (see further). Transformations were not experienced evenly in all countries, and Germany and France went through different stages, with differing tempos. At certain moments, certain countries have lived very intensely the purportedly ‘new’ obligations (this was the case of Germany after Hartz IV), some were more aware of the reshuffling of funding mechanisms (this was the case of France after the introduction of a new hybrid between tax and social contribution in 1989⁸, but also of the UK introducing tax credits). For a long time, for instance, American scholars tended to ignore the role of the wide-ranging Earned Income Tax Credits, as a key (if not *the* key) programme in American strategies (Gilbert and Van Voorhis, 2001). [4] Fourth and finally, ‘social citizenship’⁹ has actually been altered, in certain countries, at certain times, and for certain groups: this is certainly the area which is most

⁶ In Germany, for instance, the social inclusion/exclusion discourse suffered from the problem that the German language has no proper antonym to *Ausgrenzung* (exclusion) – the linguistic antonym *Eingrenzung* is not the semantic antonym but means ‘containment’, *Einschluss* means ‘locking in’, and *Integration* carries a paternalistic undertone vis-à-vis those who supposedly need it – disabled people, ex-convicts, migrants etc... Consequently, the German discourse had to adopt *Inklusion*, which had not been part of the social science or political language before the early 1990s. An alternative in use is *Teilhabe* which, however, lacks the ‘in-out’ dichotomy of inclusion/exclusion. – In France, the vocabulary of *exclusion* was invented, but then social exclusion in proper English took another meaning and another meaning again in international English at the European level in the Commission’s documents (see Barbier, 2008a).

⁷ See the French *activité professionnelle*, meaning an effective occupational commitment of individuals). In Germany, the Hartz IV reforms led to the fact that categories of classification were reshuffled, insisting for instance on the difference between those who are *erwerbsfähig* (able to work according to the criteria used by the Employment service) and not *arbeitslos* (not unemployed) and those who are *arbeitslos*.

⁸ As table 1 shows, one of the key elements of activation « à la française » (Barbier, 2008b) introduced and gradually extended from 1993, was the reduction of social contributions, especially for employers. In 1989, a new hybrid of tax and social contributions was introduced in France, the *Contribution sociale généralisée* (CSG) that is an earmarked tax for funding social expenditure. The lowering of social contributions for employers, inasmuch as it was aimed at creating more jobs is a typical activation strategy.

⁹ If we use the term as an easy functional equivalent of social rights, as is often done in international comparative literature. For a more analytic notion, see Andersen (2005) and Barbier (2005).

difficult to analyze, when one does not content oneself with a superficial usage of ‘social citizenship’.

Two clear different ideal-types: what about a third?

Many studies have tried to capture stylised versions of ‘activation’, under the form of ideal-types: most contrast a ‘liberal’ (or ‘market’) type with a ‘universalistic’, ‘generous’, ‘social-democratic’, ‘social-activation’ one. The former is under the influence of a strict market rationale, where beneficiaries of income support are deemed to quickly ‘go back’ to the market and where limited provision of services is organized, whereas the latter combines a high degree of service provision with the possibility of enjoying generous benefits for a much longer time (Barbier, 2002, 2008b ; Serrano Pascual, 2007; Lødemel, 2004 ; Goul Andersen and Pedersen, 2007). Although one country would tend to rather fall in one of the categories, no country neatly fits with one single ideal-type, first because variety prevails in implementation: within the same country very different forms are observed (Bouchoux *et al.*, 2004, for France; Larsen *et al.*, 2002, for Denmark ; Morel, 2000, for the USA); local factors influence the style of the strategy, even in the case when a centralized pattern prevails; one of them is the relative situation of the labour market. Moreover, from the beginning of the ‘new activation’, it was always easier to put ‘Beveridgean’ countries against one ideal-type. Continental or ‘Bismarckian’ countries have experienced difficulties to integrate new strategies, not only, but importantly because of their institutions (Clasen and Clegg, 2006): both the funding of social protection through contributions and the institution of *l’assurance sociale* or *Sozialversicherung* have played a role.

In the liberal type of ‘activation’, two elements have been present together, i.e. the introduction of tax credits as a substitute to benefits formerly not systematically linked to employment, and on the other hand, a stricter enforcement of already existing obligations, or the introduction of new behavioural requirements vis-à-vis the unemployed (insured or assisted). This kind of ‘activation strategy’ has particularly been emblematic of the UK’s. However, in the universalistic type, closer to the real situation observed in the Scandinavian countries, benefit levels remained much higher, as well as their duration¹⁰; sanctions were only formally stressed as obligations were inserted in contracts with the administration, that the assisted persons and the insured unemployed abided by (Barbier, 2006). The opposition is well illustrated by the contrast between Denmark and the UK in the late 1990s: in the UK, a stricter benefit regime was seen by elites as necessary because a large part of the working age population was out of the labour force (and eligible to disability benefits or to lone parents benefits, both populations being inactive); at the same moment, in Denmark, rates of employment were significantly higher, including for women, and the rationale for introducing *aktivering* in a rather equal society was to prevent young people from shunning the ethics of work, and to contain the share of working age persons that were eligible to a great variety of benefits. Contrary to a widely shared view, continental systems have never remained ‘frozen¹¹’ (Barbier et Théret, 2004/2009). However, they did not show a clear common pattern of transformation when it came to ‘activation strategies’ (Barbier, 2008b). Moreover, because reform is a continuous process, one should consider things in a dynamic perspective. The comparison conducted here will show that it is difficult to put Germany and France as examples of a single stylized ideal-type, although, over the period reviewed and especially in the 90s and the 2000s, we will conclude that they have tended to resemble one another in many respects. Because of persistently different empirical hard facts though, it would be far-fetched to speak of tendencies

¹⁰ Interestingly enough, late in 2009, the Danish government secured a coalition consensus with the far-right, to finally decrease the duration of unemployment insurance from 4 to 2 years.

¹¹ See: Levy, 2000; Esping-Andersen, 1996.

unifying countries as different as the ones we review here, but even more, ‘Bismarckian’ countries including the Netherlands and Belgium (Clegg, 2007).

Hence, when one deals with the comparison of France and Germany, one lacks the convenient support of a third ‘ideal-type of activation’: despite their qualification, in common parlance as ‘Bismarckian’¹² systems, to a large extent, France and Germany have remained different in their approach to ‘activation’ strategies. Beyond the rather easy identification of ‘common trends’ that characterize the on-going transformation of systems of social protection, one has to finally acknowledge the role not only of inherited institutions, but also of actors that negotiate these transformations (Giraud and Lechevalier, 2010), their in-fighting with one another within the borders of the nation states, the influence inherited from history – certainly not a simple ‘path dependency’ in this respect, and the marks that this history has left on singular national systems, each with their own political culture determining the forms ‘social justice’ takes (Barbier, 2008a). This is why a detailed comparison between France and Germany is in our view useful. Unlike in conventional ‘sweeping’ comparisons (which tend to sweep out national idiosyncrasies), we will pay due attention to institutional legacies and to the linguistic and ideological framing of issues. This is why we present core institutions and provisions in their original wording rather than making them artificially synonymous by translation¹³.

The macroeconomic context and the timing of reforms

The activation of social protection obviously does not happen in the absence of more encompassing determination; its main rationale is economic, in a period of austerity (Pierson, 2001) in the context of globalisation and of the flexibilization of the labour markets (Barbier and Nadel, 2002). In most countries, labour and employment flexibility has resulted in the concentration of the detrimental effects of flexibility on some categories of the workforce, who have only access to second-rate social protection. Hence, activation strategies are often criticised for this; however, they have displayed very different consequences as to the substance of social rights and of obligations, but also as to the types and quality of jobs they potentially foster, which can be more or less instable or, seen as ‘precarious’ (Barbier, 2004b).

Especially, but not only in the area identified here as the activation of social protection, reforms implemented in France over the last 30 years were ‘punctuated’ by the business cycle alternating recovery and recession, as well as a succession of different economic policies associated with it (table 1): the ‘stagflation’ of the 1974-1983 period, the ‘competitive disinflation’ of the 1984-1993 period, economic policy governed by the Maastricht criteria from 1994 to the absorption of the shock created by the Euro in 2002 with a moderate decrease of unemployment, and the prevailing dissociation of the territorial levels of monetary policy and fiscal policy. In 2008, the extension of the financial and later economic crisis was to clash directly with reforms enacted in this year. Each cycle can in fact be associated with one main

¹² ‘Bismarckianism’ in the sense we use here means four institutional features that have cultural counterparts (Barbier 2008a) (eligible persons are wage-earners with their families; social insurance principle with funding by social contributions; benefits proportional to incomes; social insurance funds are managed by social partners). While we share the overall judgement that France and Germany are clearly comparable, with regard to their common principles, and, what’s more, to some common elements in their political cultures, we are very cautious in the use of such overall qualifiers. From the beginning, the German system was never Bismarckian, in the sense that Bismarck’s political goals were not accepted. From its beginning, and despite cross-research and cross-travelling by elites between France and Germany, the French system was both influenced by Britain and Germany, their predecessors; Bismarck came to France to study existing private pensions; Beveridge travelled to Germany; P. Laroque took his inspiration in both countries for his post-Second war project (Barbier, 2008a). The classic reference to principles of ‘Bismarckianism’ should be taken with a pinch of salt, because both countries, rather earlier than in other ones, have displayed the signs of being hybrids.

¹³ Writing in English rather than in either of the national languages concerned helps doing so – as long as one defies the temptation to submerge differences in the Eurospeak dialect.

type of reform: the pursuit of policy along Keynesian lines during ‘stagflation management’, parametrical reforms centred on a reduction of social expenditure with unchanged institutions during the period of ‘competitive disinflation’, more structural reforms once the EU single market fully came into being. These adjustments in economic policy over the past thirty years and the distinct reactions they have entailed among social actors have given rise to forward-looking reforms followed by setbacks or abrupt halts, transformations which were conceivable at a given time but which, held back by resistance, seemed less appropriate in the following period, to political learning processes involving trial and error, to innovations combining the new and the old. All in all, ‘new activation’ is especially present in the third period, from 1993, although preliminary signs of the emerging new trend were present from the late 1970s and the late 1990s.

In addition to taking business cycles into account, the development of ‘active’ and, later, of ‘activating’ labour market policies in *Germany* cannot be understood without regard to the country’s division and subsequent unification. It was the erection of the Berlin Wall in 1961 and thus the effective closure of East Germany against the previously vast labour force drain to the West that made ‘full employment’ in the West¹⁴ (which was attained in 1959) turn into a labour shortage. Together with the hitherto unparalleled but short experience of an absolute decline of GDP in 1967, this backdrop framed the 1969 overhaul of labour market policies (the passing of the *Arbeitsförderungsgesetz* – Employment Promotion Act) as a ‘manpower investment’ strategy designed to prepare the labour force for structural change. Human resources were to be tapped through re-training from occupations becoming obsolete and through providing vocational training and degrees to members of those birth cohorts who had missed this opportunity in the post-war troubles. While the institutional structures, inherited from the 1927 introduction of unemployment insurance and reconstructed in the 1950s, remained largely unchanged, the reform aimed at introducing an ‘active’ labour market policy informed by the Swedish ‘Rehn-Meidner’ model (Meidner, 1998; Rehn, 1985) and strongly connected to Keynesian-type global steering and to the educational reforms of the day.

This policy received its first blow when the 1975 oil price shock once again produced an absolute slump in GDP and triggered unemployment to rise sharply and to never since fall below the 3 per cent threshold. Around 1980, the arrival of the baby boomer cohorts on the labour market augmented the labour surplus and motivated policy makers to expand programmes of direct job creation (fully subsidised jobs in the public and non-profit sector), to introduce measures that in effect facilitated ‘early exit’ from the labour market, and to gradually close access to wage-replacing benefits for newcomers and returnees on the labour market, thus shifting increasing shares of the fiscal burden of underemployment to the municipalities¹⁵ who were responsible for *Sozialhilfe* (social assistance).

The crumbling of the Berlin Wall in 1989 and hastened re-unification of the country in 1990 opened up yet another era of active labour market policy. Within only three years, 40 per cent of the jobs that once existed in East Germany were swept away by the loss of the Eastern European markets, by Western competition, as a result of the structural retardation of the Eastern economy by some 25 years and through the obsolescence of hitherto hypertrophied public authorities. In order to facilitate the smooth and peaceful implementation of the Western ‘social market economy’, ‘active’ labour market policies were introduced at a historically unparalleled scale, creating substitute paid activities for almost one million persons at the peak of these policies in

¹⁴ ‘Full employment’ in the sense of unemployment rates below 3 per cent – due to the restoration of the male breadwinner model in post-war West Germany, employment rates in those days were actually much lower than in the later era of ‘mass unemployment’ extending till today.

¹⁵ Municipalities, in the German context, are the counties (each encompassing several towns and villages) and the larger cities that are not incorporated in counties. The number of such territorial units is around 440.

1992.¹⁶ People were employed on labour market programmes to clear up brownfields for industrial resettlement which never materialised at the desired scales, while others were re-trained for jobs that never were created, and many were re-trained several times.

Eastern demand for West German products, much of this publicly financed through programmes of urban reconstruction and thus of only ‘medium-tech’ character, extended the favourable business cycle of the late 1980s and shored up timely structural change, which could no longer be withheld from 1993. Consequently, also West Germany experienced a period of accelerated structural change, and some of East German ‘achievements’ in active labour market policy were transferred to the West. When these policies in the East and the West were later evaluated against standard criteria of net effects on re-employment, most of the results were negative, indicating that some people had been ‘locked into’ programmes while the new jobs that emerged were captured by others. These findings contributed to discrediting ‘old activation’ – the traditional approach of creating alternatives to unemployment at large-scales through programmes – and to preparing the ‘neo-liberal’ turn in German labour market policies. Compared to other countries, this turn came late in Germany, but it was therefore all the more rapid and sweeping.

In 1997, the *Arbeitsförderungsgesetz* was recast as the *Sozialgesetzbuch III* (Social Code 3rd Book), explicitly doing away with macro considerations of employment levels, structures and quality, emphasising individual responsibility of employers and workers instead. The traditional obligations of benefit recipients of being available on the labour market, for job offers and for active measures were complemented by ‘actively seeking work’ (*Beschäftigungssuche*), and the maintaining of occupational status was removed as a restriction of job offer acceptability (*Zumutbarkeit*). In 2001, ‘back to work agreements’ (*Eingliederungsvereinbarungen*) were introduced. The ‘activating’ turn in German labour market policies culminated in the 2002/2003 recession with the *Hartz* reforms of 2003-2005, which will be dealt with in more detail below.

2 The French and German strategies before the turn of the century

With the broad meaning we choose to attach to ‘activation strategies’, we identify five main areas where interrelated reforms happened in ‘new activation’ times. These areas sometimes overlap nowadays, especially because, as we noted earlier, there has been, in Germany and in France, a tendency to ‘de-specialize’ the policy areas inherited from the post-war period. Incidentally, it is probably in the United Kingdom that this process of reforming many sectors *systematically and systemically* has been the most consistent in the 90s and into the 2000s. However, seen with hindsight, these often unheeded transformations become more understandable: a gradual blurring (if not the merging) of policy areas is on-going (both assistance and unemployment insurance and of more traditionally distinct ‘employment policies’ or ‘active labour market’ ones). This quasi-merging has prevailed from the beginning of the introduction of ‘activation strategies’ in the UK: ‘welfare reform’, as it was hailed from the mid-1990’s (notably by the Labour party commissions) was always about the welfare system and, at the same time, about getting people to work. In France, the blurring occurred more discreetly, and in Germany even more. Although it is impossible (and inappropriate at the same time) to ascribe this blurring to an elusive ‘cognitive influence’ of the European Employment Strategy started from 1998, the European Union (EU)’s cognitive framework eased the gradual transformation of thinking among elites.

¹⁶ For comparison, the peak level of Active labour market policies (ALMPs) in the West had been slightly above 300,000 in 1988, in a population four times as large (Knuth, 1996).

Five main policy areas are displayed in table 1: (a) unemployment insurance and the active labour market programmes it is crucially connected with; (b) social assistance, sometimes as in France made of various minimum income benefits, also linked to programmes intended to ‘activate’ the poor and the assisted; (c) the design and sources of funding of social protection: social contributions – employers’ and employees’ – were reformed because they were seen as affecting labour market strategies of employers (hiring, notably) and of employees (adapting their labour supply); (d) family policy because it has sometimes happened that compensation for raising children was now framed in ‘tax credit’ terms; (e) finally, in both countries, as table 1 shows, strategies were implemented in order to facilitate early exits from the labour market in the 80s: this was of course the exact opposite of ‘activating people’; yet, as the table shows, some reforms were introduced in the late 90s and certainly in the 2000s for preventing people to leave the labour market, hence ‘activating’ them.

Despite the fact that we consider the five policy areas in France and in Germany, the present review cannot however be comprehensive, for lack of available space in this paper: also because most of the literature dealing with understanding activation reforms has tended to focus on the direct changes in unemployment insurance and assistance, we shall concentrate on elements (a) unemployment insurance and the active programmes and (b) social assistance and the associated programmes.

2.1 France: Minimum income benefits (MIB) and the steady reduction of employers’ social contributions: an improbable couple of mechanisms for a sustained activation strategy (1988-2007).

The French activation strategy must be seen as a nexus of reforms reaching far out. To be sure, these were not implemented as part of a clear-cut and conscious political strategy. This is an understatement: over the last twenty years and until 2007, France has certainly not been a country where clear-cut plans and open discussion in the public debate have prevailed. However, considered with hindsight, the reforms appear as a global overhaul of the system, which the unemployment insurance and minimum income benefits are only pieces of.

How Republican ‘activation’ was born in the late 1970’s

Until 1988, the French system had no mainstream safety net benefit. It had a system of social assistance (*assistance publique*, later renamed, in 1953 *aide sociale*) (see table 1). *Aide sociale* was legally served to families, elderly people and children in dire need, as well as to disabled persons. Along the years though, minimum income benefits (MIB) were however introduced for certain types of groups (working-age people) with special types of labour-market related problems. RMI (*revenu minimum d’insertion*) was introduced in 1988¹⁷ and the benefit was endowed from its inception with a specific legacy of ‘Republican’ solidarity¹⁸. The innovative

¹⁷ 1988 is the year where the key ‘activation’ legislation was introduced in the USA (Morel, 2000).

¹⁸ Symbolically, article 1 and 2 of the RMI Act (1988, re-enacted in 1992) quoted French Revolution proclamations of rights of citizens to relief support, not charitable relief, but citizen rights based relief. This is what we call ‘Republican’. Successive 1988 and 1992 RMI Acts established RMI as an unconditional citizenship right. Article 2 of the RMI Act reads as follows: “Every person residing in France whose income (..) does not reach the amount of the minimum income (..) and who is at least 25 or is in charge of one or several child (ren) (..) and who accepts participation in the activities, determined with him/her, that are necessary for his/her social or labour market integration, has a right to RMI” (1988, 1992 amended, Acts).

motto of the 1980s actually was ‘*insertion*¹⁹’, meaning that RMI beneficiaries were owed special attention by the state and local authorities (*départements*) to support their integration in society through a special ‘contract’ (*contrat d’insertion*) associated with the benefit²⁰. When they were introduced, in the late 1970s for the disabled and the less skilled young, measures were promoted to ‘activate’ these groups *in a very specific sense*²¹: exactly at the opposite of a punishment or as the only way out from presumed ‘dependency’, work was here promoted as a positive channel for integration into society and for accessing full political citizenship. Although comparable in some way with the German principle of integration in society, as used in the *Sozialhilfe* Act, its main ideological base was supposed to be equal political citizenship, and not the dignity of man (*Würde des Menschen*) (see later).

Originating in civil society initiatives, the doctrine of *insertion* was only at a second stage appropriated by the French administration, which designed fully-fledged ‘*insertion* policies’. However, in the initial solidaristic *insertion* philosophy, ‘social integration’ was never meant primarily in terms of compelling people to take jobs on the market. In fact, due to the particularly low rate of job creation in France at that period, many programmes entailed the opposite function of keeping people in ‘welfare’ rather than transferring them over to work which did not exist (Barbier and Théret 2001). Although somehow watered down later, this rationale can be interpreted in terms of ‘Republican’ values, linked to the state’s obligation to act as an *employer of last resort*. This special role of the French state has historical long-term roots reaching as far as the 18th century French Revolution. RMI was introduced in a time of ‘*nouvelle pauvreté*’ when in many countries poverty was ‘rediscovered’ – as early as 1976 in Germany²². In the previous years, a first generation of three benefits had been put in place, for special categories: one for mothers of young children who were left with no resources (mainly because of widowhood or divorce) (*Allocation de parent isolé* – API, in 1976); one for disabled persons (*Allocation d’adulte handicapé* – AAH, in 1975). Alongside this benefit, a national imperative of solidarity with disabled workers was proclaimed. Additionally, *Allocation de solidarité spécifique* (ASS) was introduced from 1984, as part of the unemployment insurance fund, but tax-funded. ASS corresponded to the period where mass unemployment settled and where the state was called for compensating the income for long-term unemployed. This benefit was never exactly identical to the former *Arbeitslosenhilfe* (ALH), although it bears similarities to it. Its main difference is that ASS was always a flat-rate benefit, with an amount not very different from mainstream assistance, whereas in Germany it could be significantly higher because it was tightly linked to the mainstream insurance (see later). Note that, contrary to benefits in the UK system (e.g. income support and incapacity benefit), AAH, API and ASS were from the beginning designed in order that recipients remained able to be active, at least partly. API was never a benefit designed for allowing mothers to remain inactive: quite the contrary, because mothers were supposed – in the context of an already well established trend of female activity in France – to take employment again as soon as their youngest child was 3 (Barbier and Théret, 2001).

¹⁹ As we have shown (Barbier and Théret, 2001), there is no exact translation of « *insertion* », a term with wide ranging connotations and a notion welcoming many qualifications (*insertion professionnelle, insertion sociale, insertion tout court.*). For the French empirical definitions, see Paugam (2000) and Eme (1997).

²⁰ From the start, RMI was calculated as a difference between the beneficiaries’ resources (including family benefits and housing benefit) and a flat rate sum. The sum varied according to the number of people in the household.

²¹ No explicit mention of *activer* (activate) was ever made in French to beneficiaries; the verb used was *insérer*. It is only with hindsight that one can compare this innovation in the French system with the American workfare strategies and consider them as two opposite strategies for activating unemployed and assisted persons in both countries.

²² When a Christian Democratic politician attacked the then ruling Social Democratic - Liberal coalition by discovering the „*neue soziale Frage*“ (Geißler, 1976), later called “*neue Armut*” (Lompe, 1987).

Hence, before 1988, three MIBs were in place for working age persons (AAH, API and ASS). With hindsight, well before the ‘activation’ reforms were introduced in many countries in the late 1990s, AAH and API were initially inserted in a ‘solidaristic’ perspective of ‘activation’, when the disappearance of full employment was not yet considered a possibility. ASS was already different: although in theory rules similar to the unemployment insurance have always applied to it, the benefit, in a period of massive unemployment, tended to act as a long-term support for older people that were mostly deemed unable to find employment again, after they reached the age of 55 years and more. Additionally, from 1984, a *dispense de recherche d’emploi* (DRE)²³ was introduced, due to which mostly older unemployed were able to skip the rule of looking for a job from 57,5 and later from 55 years.

However, despite its rhetoric and symbolic dimensions, RMI failed to live up to its initial proclaimed ambitions. Before its suppression in December 2008 (and its replacement with RSA – *Revenu de solidarité active*, see further), it nevertheless exemplified the ‘hybrid’ nature of the French system, enhancing particular features related to its history: on the one hand, no obligation was ever imposed on RMI recipients to register with the PES to look for jobs. This still held true when reforms were mooted in 2007 and eventually passed in parliament, and in this sense, it was entirely inappropriate to compare RMI with US ‘workfare’; on the other hand, the state was never able to provide RMI recipients with a sufficient scope and quantity of opportunities to really ‘insérer’ (integrate) themselves in society. Certainly programmes and support provision was organized but with limited or controversial effects (Barbier and Théret, 2009). As was the case in all countries, local implementation obviously introduced variation, differences as to the interpretation of the rules (Bouchoux *et al.*, 2004; Larsen *et al.*, 2002). However, *nationally, a ‘punitive’ orientation never prevailed*. Over the period considered, because no punitive orientation was either present in the former *Sozialhilfe* after its 1962 reform, this is a common feature to Germany and France. Before RSA existed, plans discussed with beneficiaries were on the basis of individualised contracts, where choices were taken into consideration. RMI was legally a right, and the intent of the members of Parliament was never to make it conditional in the sense of the now prevailing ideology of rights and responsibilities. As is easily understandable, it was overwhelmingly assumed however that all recipients should engage in ‘activities’, which, on the medium- or long-term, should hopefully result into integration in the labour market (*insertion professionnelle*). In 2003, the government tried to introduce a new scheme for RMI recipients who had been eligible for two years, imposing contracts with protection lower than for mainstream wage-based employment (*Revenu minimum d’activité* – RMA). For a marginal number of persons, the benefit’s link to traditional social security was cut, only briefly because the eventual failure of the programme.²⁴ Because of intense political controversy over a programme that was essentially intended to placate the right-wing section of the fresh 2002 political majority, many French *départements* (local authorities) never really adopted the measure – which, even after its re-launching in 2004, accounted for a tiny proportion of recipients²⁵. In 2004, RMI was further decentralized, which meant that the scope for local variation was to extend. Yet variation already has existed for a

²³ Note that DRE is deemed to disappear by early 2012 (see table 1): the measure was decided however in 2008, before the full extension of the present economic crisis.

²⁴ The Raffarin government introduced new legislation for RMI recipients after a certain period of eligibility. These individuals were supposed to be transferred to the new benefit (*revenu minimum d’activité*, RMA). However, out of the 1 million recipients at the end of 2005, about 15% of RMI recipients had access to special employment programmes.

²⁵ A remaining number of participants were at less than 15,000 in 2008. RMA was merged into RSA as of June 2009.

long time (Bouchoux *et al.*, 2004). RMA was a fully-fledged failure. Here is a clear instance of the difference, at the time, between Germany and France: in the same vein, the new right-wing government in 2003 also tried but failed to reduce the number of ‘unemployment’ benefits by only retaining the mainstream unemployment insurance benefit (see further: PARE) and merging ASS with RMI.

Hence RMI, the central benefit, may be seen as emblematic of the provision for assisted persons (as opposed to insured ones). Over the whole period, we consider them as ‘activated’ because, from the beginning, a special *insertion* contract was introduced, although often not formalized. This contract entailed that the recipient was to engage in activities. However, because of insufficient funding resources, of explicit reluctance of *départements* to play their role in insertion programmes, the provision of support activities and, even more, of *contrats aidés* (subsidized contracts), was always insufficient for the real delivery of quality services to RMI beneficiaries. During the latest period before the suppression of RMI, reforms were added to foster the taking up of employment by RMI recipients. Suffice it to say that, from its creation, the benefit comprised provisions allowing recipients to keep some of their income when they took a job and that over the period 1988-2007, such ‘incentives’ were constantly reinforced. The mainstream tool chosen by French political authorities to help RMI beneficiaries (but also API and AAH, and less often ASS recipients) was the *contrat aidé* in the non-profit sector (public and associations). These subsidized contracts appeared under many names over the period, but the most typical was the *contrat emploi-solidarité* (CES)²⁶. CES was not only the typical channel to ‘activate’ minimum income benefit recipients. Certainly the latter were among the ‘priority targets’, but CES was also the main tool used for the long-term and disabled unemployed (more than one year) and for less skilled young people. Though low, in terms of effective integration of minimum income benefit recipients into the labour market, results were never negligible (Barbier and Théret, 2001, Barbier, 2008b). As was already mentioned earlier, however, because of the low level of employment creation in France (over the long period from 1990 to 2007, with the exception of two short labour market boom periods – see table 1), labour market integration of RMI beneficiaries was always of dubious quality. In this respect, as Belorgey (1996), (one of the politicians who created it) once put it, the RMI’s ‘activation rationale’ should be seen as mixed. On the one side, people were not left abandoned with only a meagre benefit, they were also taken care of, and not in a punitive way, because all sorts of *programmes d’insertion* were funded and run by associations; at the same time, the social and economic conditions were never anyway present to integrate them in good quality jobs; on the other hand, however, the *contrats aidés* they eventually accessed did lead them in lower end service jobs and contributed to the ‘casualisation’ (*précarisation*) of one part of the labour market, introducing flexibility at its margins (Barbier, 2004b). This process started from the early 1980s, earlier indeed than in Germany. With time, politicians were increasingly criticizing RMI and the alleged failure of ‘insertion’, but on empirical documentation it was never *only* a failure: it was one in terms of the provision of quality jobs, an outcome not very different from the limited effects of activation programmes in many countries, including those considered successful before the 2008 economic crisis²⁷.

²⁶ From 2010, a new unified contract has replaced the variety of subsidized contracts existing (see further).

²⁷ The criticism was at one of its heights when RMA was voted in 2003. Although integration in the labour market was always second-rate, it is nevertheless mendacious to speak of an overall “failure of insertion”, if one takes into account the support given by social services and associations (Barbier, 2005).

Activating strategies are introduced from 1984 in the mainstream sector of unemployment insurance, active labour market policy and the Public employment service

In the insurance system, three main reforms were implemented in the 1990s. AUD (*Allocation Unique Dégressive*) was introduced in 1992 as the standard benefit: this meant tightening eligibility conditions and introducing a new principle, according to which the benefit was reduced by a fixed amount every four months (later, six months) until the end of entitlement²⁸. The underlying rationale for the decreasing benefit was that it would foster job search. Its justification had entailed a strong cost-containment motive. While the unemployment fund budget was balanced and money was spared, the new design of the benefits did not in fact encourage leaving unemployment insurance: rates of leavers to employment decreased over the period from 1992 to 1996 and this was only marginally due to business cycle reasons (Dormont et al., 2001). This was an ‘activation reform’ that failed. The 1992 reform caused the proportion of the unemployed eligible to insurance benefit to decrease from 62% in 1991 to 52% in 1998 and drove an increasing proportion of the unemployed to the assistance benefits (ASS, already mentioned²⁹, as well as RMI) (see earlier). The trend was nevertheless later reversed, during the short employment boom (the share of the unemployed eligible to benefits rose from 54.9% in July 2000 to a mean rate of 58.7% for the year 2001 and, after a peak in 2003 (64%), it became rather stable at about 60% since 2005)³⁰.

Since the mid-80s, the idea that unemployment compensation should prompt job search and help enhance skills determined the orientation of both UNEDIC (and ASSEDICs)³¹ and of employment policies (Daniel & Tuchsirer, 1999; Barbier & Théret, 2001). Measures fostering individualised training services delivered to jobseekers (for instance the retraining allowance scheme, AFR, *Allocation Formation Reclassement*) were implemented by UNEDIC from 1988. The principle of encouraging the return to the labour market was also illustrated from 1986 by the introduction of a disregard for part of the income gained from short-term, low paid or part-time jobs. All these measures became obsolete with the introduction of a new programme in 2001. This reform, which triggered intense social conflict, was not however a bolt from the blue in terms of ‘activating’ the unemployed. In October 2000, UNEDIC’s reform was agreed by employers’ organisations and three of the five French representative trade unions. In May 2001, corresponding legal provisions were approved by the government, especially the controversial ‘back-to-work support plan’ (PARE, *Plan d’aide au retour à l’emploi*). But these eventually were only implemented from July 2001, i.e. after more than one year of conflict among unions and between unions and employers’ associations and the government. The former benefit, AUD, was abandoned and the total duration of entitlement remained unchanged. Insured people were

²⁸ The minimum requirement for contribution to the fund was 4 months within the past 8 months, thus excluding people in short-term employment from compensation. As for the duration of benefits, it was linked to the duration of contribution, with a maximum of 15 to 30 months: 15 months for those contributing for 8 out of 12 months; 30 months for those having contributed for 14 out of 24 months.

²⁹ Since its introduction in 1984, the insured unemployed who had exhausted their right to the mainstream insurance benefit and who had a sufficient employment record in the previous ten years became eligible to the ASS benefit, one of the MIBs.

³⁰ 48% were eligible to the mainstream insurance benefit and 12% to ASS in 2007.

³¹ Before the 2008 reform, UNEDIC (*Union nationale interprofessionnelle pour l’emploi dans l’industrie et le commerce*) was the national fund managed by the board of social partners who made all strategic decisions, ASSEDICs (*Associations pour l’emploi dans l’industrie et le commerce*) were the regional agencies which were present over the whole territory. ASSEDICs are now merged with ANPE (see later), while UNEDIC remains a separate entity.

‘offered’ a PARE, combining the benefit and a personalised action plan (PAP, *Plan d’Action Personnalisé*). PARE mainly obliged the unemployed to have their skills assessed, to undertake training or to take an ‘acceptable’ job. The administration was committed to deliver a variety of active measures, including training and counselling. The implementation of individual projects was to be assessed in-depth at least every six months³², and was supposed to lead to various ‘levels of services’, according to the difficulties experienced by the beneficiaries, but no comprehensive evaluation of the new benefit was ever published. With a new presidency in 2002, fresh reforms were mooted, which appeared difficult to legitimize. In 2004, the government suffered a first setback when the *Conseil d’État* (the highest administrative court) censured it for having approved the new agreement by social partners, which decreased entitlement to benefits for PARE beneficiaries. When, in the 2004 elections, all regional councils but one were won by the opposition, the president abandoned the 2003 reform of ASS, the entitlement to which was supposed to be shortened, leading to more people being transferred to the mainstream RMI benefit. In both cases, reforms were ditched. At the same period, the government was increasingly willing to find a breakthrough for the reform of the Public employment service (PES) which in a way had been implicitly on the agenda since the early 1990s without materializing.

After the failed 2002-2004 reform, a new agreement was passed between social partners in January 2006 and approved by the government. The main changes agreed in 2006 by the majority of trade unions and employers’ organisations were related to traditional adjustments of employers and employees’ contributions to the fund in order to balance its budget. The duration of entitlement was also adjusted. But, apart from balancing expenditures by adequate resources, probably the main stake of this new round of negotiations was a wider reform of the PES and its link to the social insurance system (see further). The fact that France over the last 20 years failed to achieve full employment and saw its unemployed population grow and remain stable is very well documented. Except for two periods (1988-1990 and 1997-2001), unemployment rates were always high in European comparative terms. The unemployment rate was still over 7% when the economic crisis of 2008 started. Hence, for most of the period, French governments were confronted with the ‘employer of last resort’ question, the state being expected to provide temporary jobs when the market failed to deliver them. As a result – although never reaching levels observable in Sweden and Denmark – a significant proportion of GDP has been constantly devoted to employment expenditure (Barbier and Gautié, 1998). From the 1980s on, as Keynesian full employment policies became obsolete, *politiques de l’emploi*³³ gradually emerged as a new and consistent policy area for social protection. Throughout the 80s and into the early 2000s, programmes mixing both minimum income benefits (see section above) and ‘job creation’ schemes were seen as essential elements of *politiques de l’emploi*. In a nutshell, a mean yearly stock of 400 to 500,000 places was funded between 1993 and 2003³⁴. Even in 2006, after a gradual decline, their stock figure was still close to 300,000. This provision was however never able to accommodate all target groups, thus ruining the programmes’ claim to ‘universal solidarity’. With the economic crisis, the government announced in the autumn 2008, that the figure was to rise again at more than 300,000.

³² The target decided for the PES to achieve in 2007 was a contact with the unemployed on a monthly basis.

³³ The mainstream word used in French for an equivalent of ALMPs.

³⁴ The active population in France has been in the range of 24 to 25.5 million in the 90s.

In a first period, from the late 80s, ALMP programmes were gradually extended. They encompassed: (i) training schemes for the unemployed; (ii) temporary subsidised employment in the public and non profit sectors; (iii) subsidised contracts in the market sector for certain hard-to-place groups. Training programmes aside, almost all participants enjoyed an employee status (*statut de salarié*) and, consequently, were entitled to standard social protection rights (nevertheless, there has been a clear relationship between these schemes and the emergence of a ‘working poor’ stratum in France). The number of participants in the various employment programmes increased to about 11% of the active population in the late 90s (a stock of 3 million in 2000, if 330,000 (older) unemployed allowed not to seek work were included).

Globally, over the period, these programmes nevertheless failed to actually provide hard-to-place people (and the unemployed more generally) with effective transitions to conventional market jobs. Only a minority of subsidized contracts’ participants succeeded in gaining such access. Other forms of temporary subsidised jobs, like the *emplois jeunes*³⁵, have nevertheless yielded positive outcomes for participants (although net effects were controversial). Additionally, subsidies targeted on contracts for the long-term unemployed or RMI beneficiaries in the private sector proved effective. Yet, while more similar to the Scandinavian ‘employer of last resort’ rationale than to a liberal one in this domain, the overall French policy appears as implemented only half-way, because of limited funding and quality. Hence, a significant proportion of employment programmes could certainly not be viewed as effective but, as in many other countries, they have certainly acted as ways of decreasing ‘open unemployment’. These discouraging outcomes also concur to the increasing prevalence of inequality and segmentation and certainly foster the special relationship French society has built over the last twenty years with the concept of *précarité* (Barbier 2008a)³⁶.

Indeed, although it has now become a thing of the past, one should not forget that the socialist government implemented a new form of employment policy from 1998, namely the reduction of the working time (RWT). Its rationale was job creation (RWT combined with social contributions’ reduction). With the return of a conservative government from May 2002, as the RWT was abandoned, it retained and even extended the logic of social contributions’ reduction. Finally, in 2001, the Jospin government added a tax credit, the *Prime pour l’emploi* (PPE), which was to be integrated with RSA (see further). The PPE was supposed to function as an instrument against poverty and to represent an incentive for work. However, it was estimated at that time that the impact of the PPE on the reduction of poverty was marginal and that its theoretical ‘incentivising’ dimension was also marginal.

³⁵ The *emplois-jeunes* (or *nouveaux services-emplois jeunes- NSEJ*) programme was one of two flagship programmes introduced by the Jospin government in 1997, along with the reduction of the working time. NSEJ were 5-year ‘temporary’ contracts, signed by young people under 25 in associations and in the public sector. Whatever its final net outcome, and efficiency balance, the NSEJ programme showed that the French government could create and manage an important programme of public and non-profit jobs in times of a labour market boom, a programme not targeted at the low skilled or the excluded and certainly not “workfare”-like. The programme was cancelled by the Raffarin government in 2003. In summer 2005, the de Villepin government eventually reintroduced a similar programme in the public sector, although on a much smaller scale.

³⁶ The English word is ‘precariousness’, it applies not only to employment but to living conditions.

Summing up: the French activation strategy in a nutshell from the 80s to the early 2000s

In a nutshell, the French activation strategy in a broad acceptance is a hybrid combination of features, marrying different social democratic and liberal influences with idiosyncratic national elements:

1. While activation measures (corresponding to what we have called ‘new activation’) were implemented from the late 1980s - an exception is the emergence of the French innovation of *insertion*, which dates back to the mid-70s -, unemployment insurance and various MIBs have been at the forefront of the public debate only really in the 2000s. As ‘Republican activation’ still remained, reforms tended to target remaining regulations leading to possible ‘inactivity traps’, especially for minimum income benefits’ recipients; this was a harbinger to the post-2007 reforms examined in a later section. At the same time, a sector of employment programmes, well established, mostly wage-based (and not assistance-based), certainly amounts to a significant activation strategy; these programmes were implemented through the creation of special subsidized contracts, which took on different labels but, basically implemented the ‘employer of last resort’ logic to only a portion of the potential population in need of jobs, including the potential ‘insertion’ target groups mentioned above.
2. The gradual decrease of employers’ social contributions’ came to occupy a leading role in the activation dynamics, and, for a short period, it was ‘embedded’ into the working time reduction process, along with emerging tax credits – a conjunction of reforms which, in terms of the contributions’ burden, have thoroughly altered the traditional French principle of funding social protection via social contributions levied on both social partners; although the working time reduction was abandoned, the principle of shifting the cost of contributions from employers to the budget has been maintained. In 2006, the global expenditure devoted to ‘active programmes’ was estimated by the ministry of labour at about 13 billion €, a sum which was about half the total cost to the budget of the general reduction of employers’ social contributions (nearly 30 billion euros for 2008)³⁷. Only 10 years ago, both sums were comparable: this considerable change stresses how important it is to situate ALMPs and ‘activation’ in a restricted sense within a broader strategy of activating the system of social protection.
3. Large sectors of social protection (social services, family and housing benefits) have so far been spared any particular linkage to work ‘incentivising’. In this respect, unlike the liberal type of activation and closer to the universalistic model, there seems to remain a significant – although decreasing – room for manoeuvre for ‘traditional’ social policy – most notable within family policy.
4. Finally, the introduction of a consistent activation strategy has yet to materialise in the domain of ‘active ageing’, and this will be made more difficult because of the 2008 crisis. However, the pension reforms of the recent years - also including the 2010 reform – have undeniably entailed an ‘activation’ motive, with the project of keeping potential retirees in employment for additional years.

³⁷ When the first social contributions’ reductions were implemented, a part was not compensated by the state budget. From 1995, it was decided that all reductions were to be compensated by transfers from the state budget to the *sécurité sociale* funds.

2.2 German activation before the 2000s

Whereas the German developments are at least as contradictory as the French ones, they appear more straightforward in the way such contradictions emerge. This difference can be attributed to a different style of legislation and implementation. Germany's legalistic tradition, its high value for the *Rechtsstaat* (the principle of 'State of Law' being valued probably higher than 'State of Freedom' or 'Welfare State'), implies a continuous quest for legal coherence, and it prevents piling acts of legislation on top of each other without caring for their implementation. Rules and provisions that prove impossible to implement or enforce are often abandoned or modified after some time. Whereas, within Germany's multi-level governance structure shaped by federalism and municipal self-administration, there are numerous checks and balances to an extent perceived as immobility by some observers (Scharpf, 1988), (as opposed to France), it has never happened in Germany – perhaps exactly because of these upstream checks and balances – that legislation for which majorities were secure or which had even been passed was later withdrawn in reaction to protests or electoral setbacks. Another effect of federalism is that fiscal disparities and attempts to shift fiscal burdens between different levels of the polity are an important source of dynamism, not least in the cost-intensive field of social protection. It is noteworthy in this context that, unlike in Denmark or the Netherlands, the costs for social assistance were not shared between municipalities and the national government but must be borne by the municipalities alone.

Principles of activation dormant in social assistance

For reasons that will become clear in the course of the analysis, it makes sense to tell the German story of 'activation', just as was done in France, by starting from the more residual forms of unemployment compensation, the lowest safety net which is conventionally not considered part of 'labour market policy'. It is from social assistance that principles themselves, after long periods of dormancy, were 'activated' to take effect free from interference by the 'ownership principles' inherent in insurance-type regimes of social protection.

Social assistance – *Sozialfürsorge*, later *Sozialhilfe* – in Germany became distinguished as a provision for the poor as opposed to provisions for the unemployed since the demobilisation and the closure of armaments production forced in 1918 by the defeat in World War I (Leibfried & Tennstedt, 1985). In order to spare, in revolutionary times, the newly discovered 'unemployed' (*Erwerbslose*) the stigma of poor relief, more favourable provisions were introduced for them as *Erwerbslosenfürsorge*, thus distinguishing *Armenfürsorge* as a provision separate from labour market policies, which later became national with the introduction of unemployment insurance in 1927. National framework legislation binding the municipalities, which remained responsible for *Armenfürsorge* (relief for the poor), was introduced in 1924 and practically remained in effect until 1961. The 'activating' elements in this regime were possibilities for making benefits conditional on community work and for referring refusers – the 'work-shy' (*arbeitsscheu*) individuals – to a workhouse, a clause that was aggravated into a special type of detention camp during Nazi rule (Burghardt, 2005). This tradition, together with the untranslatable paternalistic undertone of *Fürsorge* (imagine a semantic blend of 'care' and 'custody'), explains why social assistance is perceived as stigmatising until today. In addition, the comparison with France tells us that this stigma was never diluted by creating special categories of MIBs with socially accepted justifications like disablement or lone parent – everybody not covered or not sufficiently covered by an insurance-type regime of social protection (unemployment,

survivor's pension, old-age pension, sickness daily allowance) would fall into social assistance in case of neediness.

Against the backdrop of this tradition it was seen as a great achievement in the development of a democratic welfare state (or rather *Sozialstaat* – see Kaufmann, 2003/2006 for the subtle differences), when *Fürsorge* was replaced by *Sozialhilfe* through the Social Assistance Act (*Bundessozialhilfegesetz*) taking effect in 1962. Referring to the first article of the *Grundgesetz*³⁸, the (then only West) German Constitution, this law states as its foremost objective “to enable the recipient to lead a life in accordance with human dignity”.³⁹ Building on this principle, subsequent jurisdiction and rulings by the Federal Constitutional Court established an individual unconditional right to assistance⁴⁰ and removed possibilities for punitive institutionalisation that had been carried over from the *Fürsorge* tradition. Since there is no universal legal minimum wage in Germany, benefit levels could not refer to such a norm but had to be established by statistical methods of defining minimum means of existence. When comparing with the spirit of French RMI as a means of Republican *insertion* into society, the framing of social citizenship as a ‘right to human dignity’ in the German context is more individualistic – less societal, and it carries a moral-paternalistic undertone like ‘living up to the standards of human dignity’. This bears traces of the later ‘activating’ idea of controlling and influencing people’s behaviour. Accordingly, the optional *Gesamtplan* (case management plan) was not a ‘contract’ like in France but a prescription at best to be discussed with the client.

Throughout all its amendments, again in contrast with France, social assistance legislation always stated the recipient’s prior-ranking obligation to utilise his labour power for supporting himself and his dependents. The municipalities – whose responsibility for social assistance was not altered by the 1962 reform – were supposed to see to recipients searching for a job and to co-operate with the Public Employment Service on this behalf. However, like in France, there was never a formal obligation for recipients to register with the PES as jobseekers or unemployed. Many municipalities did not insist on registration since they felt that the PES would not do anything for their clients. Here lies one of the roots for increasing confrontation between the PES and the municipalities: The incorporation of the unemployment insurance and the job placement functions within the *Bundesanstalt für Arbeit* implied that job placement would be concentrated on the ‘insured’ unemployed whose placement promised savings for the unemployment insurance fund.

In contrast to those receiving unemployment benefits, acceptability of jobs for recipients of social assistance was never limited by occupational status, earnings, collective agreements or the ‘going rate’ – in sum, by considerations of the ‘good order of the labour market’ (*Arbeitsmarktordnung*) – but only by personal capacity and by caring responsibilities for children under three. *Arbeitsgelegenheiten* (opportunities for work) should, where possible, be created for those unable to find employment in the market; these work opportunities could

³⁸ „Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.“ Article 1 of the *Grundgesetz* – German Bundestag (2010).

³⁹ „Aufgabe der Sozialhilfe ist es, dem Empfänger der Hilfe die Führung eines Lebens zu ermöglichen, das der Würde des Menschen entspricht.“ § 1 *Bundessozialhilfegesetz*.

⁴⁰ So this, after correction through the Constitutional Court ruling, can be seen as equivalent to the right to ‘adequate means of existence’ in French RMI.

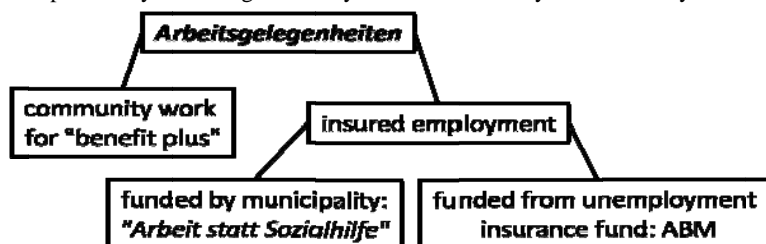
either take the form of a subsidised insured job or of referral to community work⁴¹ for the benefit plus a small compensation for extra expenses incurred.⁴² In practice, the former possibility was more attractive for the municipalities because one year in an insured job would earn the participants eligibility for unemployment benefits and subsequent unemployment assistance, thus getting people off the municipal budgets. To the varying extents that non-insured participants were admitted to *Arbeitsbeschaffungsmaßnahmen* (ABM), the direct job creation programme of the *Bundesanstalt für Arbeit*, this was the cheapest way for the municipalities as the unemployment insurance fund would bear the larger part of the costs. Where or when ABM were not available in sufficient numbers, municipalities would create similar jobs on their own account, drawing on supplementary grants from the respective *Land* government (*Arbeit statt Sozialhilfe* – employment instead of social assistance) which were often co-financed by the European Social Fund. From the municipalities' fiscal point of view, subsidised employment in the public or non-profit sector lasting exactly one year, the minimum period of contributions required to qualify for unemployment insurance, was a more reliable option than pushing usually low-qualified persons into the contingencies of the open labour market where survival for a whole year was uncertain.

Refusal to engage in work provided for the recipient could, in theory, be sanctioned by withholding part of the benefit; however, the benefit could not be suspended completely. Engagement in *Arbeitsgelegenheiten* was something the municipal benefit agency could demand of the recipient – not the other way around: Unlike in France, there never was an 'employer-of-last-resort' logic in these provisions. One might infer that in a society built on strong work ethics and in the framework of legislation conceived in times of full employment, work obligations were actually seen as an emanation of the principle of individual human dignity. By contrast, the legal texts in the chapter on *Hilfe zur Arbeit* ('assistance towards work') nowhere explicitly relate work to participation in society or to political citizenship, as was the case in France. There were discourses in this vein later from the 1980s on (attempts to establish *Teilhabe* as a semantic equivalent to 'social inclusion'), but the legal texts had been written much earlier and in a different spirit.

The practical implementation of these work-related clauses was nil during the 1960s and 1970s when the number of social assistance recipients was very low and able-bodied and working age recipients were an extreme exception. This changed during the 1980s and 1990s, but even then discretion and variation among the municipalities remained very high, and volunteers were

⁴¹ „Gemeinnützige und zusätzliche Arbeit“ – additional (i.e. non-substitutable) work in the public interest. This traditional clause is one of the provisions that were 'activated' and implemented at large scales through the Hartz IV reform which incorporated a large part of the *Sozialhilfe* tradition into a new regime of MIBs.

⁴² The potentially confusing taxonomy of instruments may be clarified by the following hierarchy of schemes:



From the point of view of *Sozialhilfe*, ABM was one possible *Arbeitsgelegenheit*; from the point of view of 'active' labour market policies of the *Bundesanstalt*, ABM was the main programme of direct job creation. Since insured employment came in disuse for the non-insured unemployed after 2005 (Hartz-IV-reform), the term "Arbeitsgelegenheiten" is now often used synonymously with 'working for the benefit'.

preferred except where *Arbeitsgelegenheiten* were occasionally – only in a few cities systematically – used as a deterrent against applying for benefits or as a work test. So this is what was misleadingly labelled ‘workfare’ by Voges, Jacobs & Trickey (2000). In the light of the practice of the time, it could at best be seen as a largely dormant ‘work first’ principle, but with the benefit never being fully conditional on work. On the other hand, when comparing with French RMI, work orientation in German *Sozialhilfe* was doubtlessly somewhat stronger, both in philosophy and practice. As for the latter, the different fiscal mechanisms must be noted: Recipients of *Sozialhilfe* placed a heavy burden on metropolitan budgets where caseloads concentrated, and the only way for municipalities to alleviate this burden was to organise insured employment, with less emphasis on the quality or output of the work actually performed. RMI, before its 2004 decentralization to départements, was state funded⁴³. In passing, this indirectly demonstrates that, like in many countries, ‘activation strategies’ in Germany and France had also many implications in terms of funding and containing costs. Certainly a main difference between France and Germany in this respect has been the strategies to managing social contributions: a key explicit element of the French strategy with regard to decreasing employers’ social contributions, as against a more marginal element in Germany with regard to employees’ social contributions (see end of section 3.1).

Whereas the different sorts of subsidised fixed-term employment certainly did contribute to the quantitative proliferation of ‘atypical’ or ‘non-standard’ types of employment, they did not – contrary to France – directly contribute to the deregulation of labour law. The temporal nature of these jobs and their funding was, with rare exceptions, accepted by the labour courts as ‘due justification’ (*sachlicher Grund*) for putting a time limit on the labour contract. Besides, unlike in the comprehensive French *Code du travail*, legislation on labour contracts, on ‘active labour market policies’ for the insured jobseekers and on social assistance are separate fields of legislation and of jurisdiction in Germany, so there was less direct interaction between them. This is why, in Germany as opposed to France, one does not speak of these ‘make-work’ programmes as a special type of ‘contract’.⁴⁴ This is even true for the *Arbeitsgelegenheiten* where they are constructed as ‘working for the benefit plus compensation’: These are not employment relationships, so they are not covered by a contract at all, and labour law is not applicable. As we will repeat in our concluding remarks, this latter point, related to the variations of the ‘wage-labour nexus’ across countries (or *rapport salarial*, or *Lohnverhältnis*, to use concepts created by the French school of *Régulation*) has escaped many analysts so far. It is a fact that, until 2007 and the introduction of the RSA (see further) all reform attempts failed, when they intended to break the link between mainstream contractual employment relationships (*emploi salarié*, the equivalent of *Arbeitsverhältnis* in German) and the status of workers benefiting from special subsidized contracts. Similarly France and the UK were always different with respect of the type of ‘work’ offered to assistance beneficiaries, which was only exceptionally wage-based, and generally a sort of ‘topping-up’ of benefits (Finn, 2000).

⁴³ A parallel and unresolved yet question concerns the final balance of sharing expenditures between départements and the central state in France, after the 2004 decentralization – see later.

⁴⁴ In some respect, this was changed in 2004 (Hartz reforms) when contributions to unemployment insurance were abolished for persons employed in ABM, thus preventing the ‘recycling’ of unemployment insurance claims through programmes of direct job creation. Nevertheless, this created a special status only with regard to social insurance, not with regard to the labour contract.

Growing unemployment and the shifting of fiscal burdens to the municipal level

In the course of almost three decades after the creation of modern social assistance (*Bundessozialhilfegesetz*, 1962) and an ‘active’ labour market policy framework for the insured or formerly insured unemployed (*Arbeitsförderungsgesetz*, 1969, introduced on p. 7), there were huge transformations in the economic and political environment (tertiarization, German unification, transformation and partial de-industrialisation of the East, European integration and enlargement), few changes in social assistance legislation, hundreds of piecemeal and fine-tuning changes in unemployment insurance and labour market policy legislation, but few of structural or long-term relevance. Unlike in France, there was no experimentation with degressive benefits⁴⁵, with work incentives in the form of higher disregard for earned income, or with fundamentally new instruments of active labour market policy (even though ABM were supplemented by some temporary clones better adapted to the East German situation). Within fundamentally stable structures, vast quantitative changes took place, thus setting the stage for radical reform to occur only after the turn of the century. Before pointing out these quantitative changes, the main characteristics of the institutional set-up and of the benefit structure above *Sozialhilfe*, the safety net of last resort, must be introduced.

The creation of a national German scheme of unemployment insurance dates back to 1927. Administration of insurance funds and of benefits, of job placement (the PES function), and of ‘active’ policies including training for the unemployed or persons threatened by unemployment were concentrated in one body of public law (*Reichsanstalt*, after 1949 *Bundesanstalt für Arbeit*), separate from the government as such, run through tri-partite self-administration, supervised by the government and subject to national legislation. These structures were frail at the time of their creation and proved insufficient in the World Economic Crisis around 1930, they were distorted and abused during the Nazi period, but they were restored and brought to their full functioning in the 1950s and 1960s.

Relatively short periods of maximum eligibility for unemployment benefits, by international comparison⁴⁶, of only 12 months (longer periods for older workers were introduced only from 1985 on) were set off by the virtually open-ended provision of *Arbeitslosenhilfe* (unemployment assistance). Except for the source of its funding (federal revenue instead of employers’ and employees’ contributions) and the fact that available means of own as well as partner income and assets were counted, with disregards, against the claim, *Arbeitslosenhilfe* was an integral part of Germany’s ‘Bismarckian’ social insurance system. Unlike French ASS, it was proportional to former earnings though at slightly lower replacement rates than unemployment benefit (*Arbeitslosengeld*), and as long as access to *Arbeitslosenhilfe* was still open also for new entrants or returnees on the labour market, it would be calculated, for this group, according to hypothetical earnings depending on a person’s educational and vocational status. So *Arbeitslosenhilfe*, in parallel to insurance-based *Arbeitslosengeld*, was not a minimum income benefit but a status-maintaining wage replacement conditional on the same definition of unemployed status, and the rights, responsibilities and potential sanctions attached to it were exactly the same. This also entailed, of course, that where previous earnings on which

⁴⁵ Except that *Arbeitslosenhilfe* – see p. 22 – became degressive in real value by 3 per cent annually from 1996 on.

⁴⁶ In France, until the post-2007 reforms, the mainstream duration for people who were less than 50 can be roughly seen as 2 years, provided of course that they had a continuous work career in the period.

Arbeitslosenhilfe was calculated had been low the benefit could actually be below subsistence level, thus necessitating complementary *Sozialhilfe*.

With some legal restrictions varying repeatedly over time, recipients of *Arbeitslosenhilfe*, in principle, had access to the same kinds of active measures which were – this being the reason for restrictive debates – fully funded from insurance contributions. Benefits, job placement and active measures were administered by the local branches of the PES in a uniform process for recipients of both types of benefit. According to this encompassing ‘Bismarckian’ regime logic, corporatist self-administration at the three levels of the *Bundesanstalt* (national, *Land*, and local levels) unquestionably extended to issues concerning the recipients of *Arbeitslosenhilfe*, regardless of the fiscal source of this benefit. When direct access to *Arbeitslosenhilfe*, without previous entitlement to *Arbeitslosengeld*, was gradually phased out in a long process of retrenchment between 1976 and 2000, this only served to strengthen its apparent incorporation into the Bismarckian insurance regime, since insured employment and contributions paid became the only gateway to both benefits. In other words, where Scandinavian and other countries subsidise unemployment insurance schemes directly from taxes, in Germany the contribution-based and the tax-based benefit were divided between the earlier and the later phases of an unemployment career. Nevertheless it was through compulsory contributions that one ‘bought’ the whole parcel, so that the particular Bismarckian sense of social insurance ownership extended to *Arbeitslosenhilfe* regardless of its tax-based source.

It was in this institutional structure that far-reaching quantitative changes built up pressures for reform in the last two decades of the 20th century:

1. Unemployment and receipt of the two unemployment-related benefits grew during each recession and did not fully recede in subsequent upswings, thus piling up from 1 million in 1975 to more than 4 million in 1997. In the 1990s, the East German transformation process contributed to this development. In addition it must be taken into account that Germany traditionally offers fewer escapes from unemployment into alternative benefit status than many other countries (Erlinghagen & Knuth, 2009) and that ‘early retirement’ pathways were constructed from 1985 on by extending eligibility periods for *Arbeitslosengeld* for the elderly (Knuth & Kalina, 2002).
2. With the growing of the stock of unemployment, long-term unemployment and thus the exhaustion of eligibility for *Arbeitslosengeld* became more prominent, and consequently *Arbeitslosenhilfe*, originally conceived as an exception, became more important until finally the recipients of this follow-on benefit outnumbered the recipients of *Arbeitslosengeld* in 2003.⁴⁷
3. This would have happened earlier unless, as was mentioned before, direct access to *Arbeitslosenhilfe* (without previous entitlement to *Arbeitslosengeld*) had been curbed and

⁴⁷ Unlike French ASS, *Arbeitslosenhilfe* was a mainstream benefit and not a benefit in which older recipients would concentrate – see the latest figures available before the abolishment of *Arbeitslosenhilfe* through the Hartz IV reform:

Recipients of *Arbeitslosengeld* and *Arbeitslosenhilfe*, October 2004:

	<i>Arbeitslosengeld</i>	<i>Arbeitslosenhilfe</i>
total	1,698,806	2,202,784
of these: 58 an older	477,995	199,705

Source: Bundesagentur für Arbeit, downloaded on May 29, 2010 from <http://www.pub.arbeitsagentur.de/hst/services/statistik/200410/iiiia7/le-heftd.xls>

finally closed completely in 2000. As a result, the number of recipients of *Sozialhilfe* exploded as well, exceeding 1 million in 1982, 2 million in 1991, and approaching 3 million in 1997 and again in 2004. Whereas working-age and able-bodied recipients of *Sozialhilfe* had been an exception in the 1960s and 1970s, they now became numerous due to increasing fragility of family and breadwinner relations, increasing volatility of jobs that would not last long enough to earn an insurance entitlement, people falling out of eligibility for *Arbeitslosenhilfe* through failure to report and not being admitted back in – all in all growing volatility, diversity and precariousness of modern life courses and the outmoding of the male breadwinner model. In effect, quite contrary to its original design in 1962, *Sozialhilfe* developed into a ‘third-tier provision’ for workless people. This is another similar feature with France, where RMI exactly came to occupy this ‘third-tier’ position (Outin, 2008).

4. Using the instruments already introduced (see p. 18), those municipalities hit hardest by these developments began to flesh out their own ‘active’ labour market policies in parallel to those of the *Bundesanstalt für Arbeit* (PES), because the latter, in practice, would concentrate its efforts on those unemployed people for whom it had to finance benefits. As explained before (p. 18), these municipal measures, to the disgruntlement of the *Bundesanstalt*, to a large extent entailed ‘recycling’ people into the latter’s financial responsibility by making them earn an entitlement to unemployment insurance.
5. Because of increasing wage dispersion and the expansion of part-time work, increasing numbers of *Arbeitslosengeld* or, more likely, *Arbeitslosenhilfe* recipients would have to apply for complementary *Sozialhilfe* because their wage-replacing benefit would be too low to meet their or their families’ needs. Recipiency of two benefits from two administrations entirely unrelated to each other in terms of their governance created further institutional tension. Repeated attempts to improve co-operation between the PES and the municipalities did not show satisfactory results and did not overcome negative stereotypes with regard to each other. The importance of this institutional disjunction was, however, exaggerated in the reform rhetoric around the turn of the century: 210,000 persons thus affected at the end of the drama in 2004 (Kaltenborn & Schiwarov, 2006) cannot really be regarded prominent in a total of then almost 7 million recipients of any of the three benefits concerned. And yet these “*Aufstocker*” (recipients of complementary benefits) were to become the crown witnesses of the Hartz reforms.

Now this is how the stage was set in Germany for the ‘big reform bang’ which deeply altered the structures of social protection against unemployment. The great contradiction is that what led to an unexpectedly radical reform with unintended outcomes, was the very cost-containing policy of the federal government – the closure of *Arbeitslosenhilfe* for direct access by those who had failed to earn insurance entitlements – and thus the refusal to adapt Bismarckian social insurance to the contingencies of modern labour markets and employment careers.

3. Strategies change in the 2000s

3.1 Germany: Hartz reforms

When in spring 2002, in the run-up to federal elections, the Social Democratic/Green Schröder government reacted to a scandal about massaged placement statistics of the PES by setting up a commission headed by Peter Hartz, the intention was to modernise the *Bundesanstalt für Arbeit*

and its placement services, but not to fundamentally change the institutional set-up of the PES and to break it up into several strands of service provision. Nevertheless, exactly this was the unintended result of a reform project taken up in the name of ‘activation’.

Even before the setting up of the Hartz commission, since the mid-1990s and culminating around 2000 in the discourses transported through the *Bündnis für Arbeit* (‘Alliance for Jobs’ – Fels et al., 2000), the idea had been propagated that the problems of the German labour market and labour market policies were related to the institutional incongruence between *Arbeitslosenhilfe* and *Sozialhilfe* and that these two benefits were somehow to be harmonised or even merged. Allegations to their commonalities – tax funding and means testing (Adema, Gray, & Kahl, 2003; Berthold, Thode, & von Berchem, 2000) – displaced thorough analyses of their differences – individual wage replacement in a Bismarckian regime context versus need-based flat-rates for all household members. So the Hartz Commission, in August 2002, came out by saying that in order to have ‘Modern Labour Market Services’ (Hartz Commission, 2002), i.e. one-stop jobcentres in the fashion of the day, one must merge *Arbeitslosenhilfe* and *Sozialhilfe* into a new and uniform benefit for all jobseekers devoid of claims to unemployment insurance, called *Arbeitslosengeld II* (unemployment benefit II). While details of the constructing and funding of this new benefit were left to another commission dealing with municipal finance reform⁴⁸, the wording *Arbeitslosengeld II* created the impression that the new benefit would be closer to *Arbeitslosengeld* proper than *Arbeitslosenhilfe*, whereas the opposite was true.

When draft legislation came out in 2003 as the fourth step of implementing the Hartz commission’s proposals – therefore called ‘Hartz IV’ – the following features became apparent:

1. *Arbeitslosengeld II* was to be a flat-rate benefit only slightly higher than *Sozialhilfe* because of including average lump-sum payments foreseen in *Sozialhilfe* for special occasions – breakdown of the washing machine, equipment for the first baby, new winter coat – into monthly payments. As a result, recipients suffered more hardship than before when such incidents would concentrate in short periods of time.
2. Disregard of assets and of other sources of income was more generous than it had been in *Sozialhilfe* but more restrictive than in *Arbeitslosenhilfe*. On average, former recipients of *Arbeitslosenhilfe* lost (even to the extent of not qualifying at all) whereas former recipients of *Sozialhilfe* experienced slight gains.
3. Despite the heavy borrowing from the *Sozialhilfe* regime, explicit reference to ‘human dignity’ (see p. 18) was not carried over to the new legislation. By contrast, the ‘Hartz IV’ legislation names at its primary objectives the strengthening of self-responsibility and of becoming independent of the benefit through taking up employment.⁴⁹ Nevertheless, in its recent ruling on the justification of benefit levels, the *Bundesverfassungsgericht* (Federal Constitutional Court) made reference to Article 1 of

⁴⁸ This indicates how closely the labour market policy reforms were related to fiscal problems in a federal system of governance – cf. Hassel & Schiller 2009.

⁴⁹ „Die Grundsicherung für Arbeitsuchende soll die Eigenverantwortung von erwerbsfähigen Hilfebedürftigen und Personen, die mit ihnen in einer Bedarfsgemeinschaft leben, stärken und dazu beitragen, dass sie ihren Lebensunterhalt unabhängig von der Grundsicherung aus eigenen Mitteln und Kräften bestreiten können. Sie soll erwerbsfähige Hilfebedürftige bei der Aufnahme oder Beibehaltung einer Erwerbstätigkeit unterstützen und den Lebensunterhalt sichern, soweit sie ihn nicht auf andere Weise bestreiten können.“

the *Grundgesetz* (see quotation in footnote 38), interpreting it as a ‘right to minimum means of existence in accordance with human dignity’.⁵⁰

4. The regime of *Arbeitslosengeld II* is very comprehensive in that it covers all persons of working age and not permanently incapacitated whose means do not suffice to support them and who have no other sources to turn to, namely claims to any of the insurance-based systems of social protection. Mirroring the legal boundary of ‘total incapacitation’ (*volle Erwerbsminderung* – which would entitle to a pension under condition of a sufficient contribution record), everybody not considered permanently unable to work at least 3 hours per day is defined as *erwerbsfähig* (able to engage in gainful work) and thus included in the regime of *Arbeitslosengeld II*. Obviously, persons whose physical or mental abilities are impaired to such degree that a doctor considers them able to work for no more than 3 hours per day will actually have very little chances to find any job, no matter how short hours may be.
5. Whereas, in both forerunners, *Arbeitslosenhilfe* and *Sozialhilfe*, income and means of partners and other family members were taken into account, the new regime of *Arbeitslosengeld II* created a new construct, the *Bedarfsgemeinschaft* (community of needs). By freeing parents of adult children from obligations to support them, as well as by disregarding sexual orientation, gender composition and actual sexual relationship in cohabitating couples, this construct is more modern than previous concepts of ‘family’ or ‘household’. It is however problematic in that it constructs working breadwinners as themselves needy and potentially subject to ‘activation’ if they cannot earn sufficient means to support their community of needs. In other words, whenever the cohabitating community taken as a whole is needy, then each member is construed as needy and receiving part of the benefit. Consequently, people actually supporting themselves will become subject to the new activation regime simply by having children beyond their earning power⁵¹; repartnering is inhibited because a new cohabitating partner would not only become financially responsible but would also be subjected himself, at least in theory and inevitably in administrative practice, to the regime of *Arbeitslosengeld II*.
6. From the concept of *Bedarfsgemeinschaft* and the flat-rate nature of the benefit it follows: Whereas *Arbeitslosenhilfe* was a wage replacement for the former breadwinner leaving ‘inactive’ spouses out of the administrative process, the regime of *Arbeitslosengeld II* construes the formerly inactive spouse as a needy person potentially to be activated. All recipients not attending school⁵², not working at least 15 hours per week, not currently participating in a programme, not in care of a child under three, and not currently signed off as sick by a doctor are of necessity registered as unemployed.⁵³ Consequently, a reform justified as reducing unemployment at first boosted the national unemployment count considerably to shortly over 5 million when implemented in 2005.

⁵⁰ „Das Grundrecht auf Gewährleistung eines menschenwürdigen Existenzminimums aus Art. 1 Abs. 1 GG in Verbindung mit dem Sozialstaatsprinzip des Art. 20 Abs. 1 GG sichert jedem Hilfebedürftigen diejenigen materiellen Voraussetzungen zu, die für seine physische Existenz und für ein Mindestmaß an Teilhabe am gesellschaftlichen, kulturellen und politischen Leben unerlässlich sind...“ (Bundesverfassungsgericht, ruling of February 2, 2010)

⁵¹ Child allowances in Germany are too low to meet children’s needs, low earners paying no or little taxes do not benefit sufficiently from child-related income tax rebates, and if ends don’t meet and benefits have to be applied for, then child allowances will be fully counted against the benefit.

⁵² Since *Arbeitslosengeld II* is the universal benefit for needy persons of working age, pupils will start receiving this benefit when turning 15. For them, ‘activation’ may entail that the benefit authority will monitor their school performance. Younger children will receive *Sozialgeld*, with no obligations attached.

⁵³ Registering as unemployed does not, as it would in France, involve a different bureaucracy – the benefit agency responsible for *Arbeitslosengeld II* is, at the same time, the ‘Pôle emploi’ responsible for them.

7. Criteria of job acceptability (*Zumutbarkeit*) were carried over from the legacy of *Sozialhilfe*, not from the insurance regime. This means that any job is acceptable as long as it does not interfere with childcare, place demands beyond personal capacity or is considered immoral because of the work content, the working environment⁵⁴ or extremely low pay. In the absence of a legal minimum wage, pay is considered immoral by the courts if it is more than 30 per cent lower than the 'going rate'. Thus there is no safeguard against a downward spiral of the 'going rate' itself.
8. Whereas sanctions in *Sozialhilfe* were at the discretion of frontline workers, there is now a meticulously prescribed legal sanction regime by which defined percentages of the benefit are supposed to be withdrawn in response to certain offences. In case of repeated offences, the benefit may be withheld completely or substituted by food stamps. It has not yet been contested whether this is compatible with the constitutional rights of human dignity and personal development.
9. Provisions for publicly created work, namely the *Arbeitsgelegenheiten* (see p. 18), were carried over almost identically from the *Sozialhilfe* tradition, but they are now implemented at much larger scales. Later, ABM were closed off for recipients of *Arbeitslosengeld II*, so that these *Arbeitsgelegenheiten* are now dominated by the 'working-for-the-benefit-plus' type (therefore called '1-Euro-jobs' because the allowance for extra expenses is between 1 and 2 Euros per hour) which means that they do not entail a labour contract. Where they still do, these subsidised jobs are now excluded from paying contributions to unemployment insurance and thus do not lead to a new entitlement for *Arbeitslosengeld* (unemployment benefit proper).⁵⁵
10. Incentives to take up work even if it does not yield a living wage were strengthened by constructing a gliding scale of earnings disregard. Where low earners receive tax credits in other countries, German low earners not supported by partners or other means will receive complementary *Arbeitslosengeld II*. There are currently about 1.3 million of them, which implies hidden subsidies for low-paid jobs of 11 billion Euros annually⁵⁶. Previous discussions about a '*Kombilohn*' (permanent low-wage complements, permanent subsidies to employers' wage costs, or both) have largely subsided since because this is the *Kombilohn par excellence*. It must be noted, though that part of this is due to temporal overlap between benefits paid in advance and wages paid in arrears after taking up a new job. The importance of complementary benefits as such a mere 'bridging' mechanism is not statistically clear, nor is the ratio between those taking up a low-paid job out of receiving the benefit and those already in such a job and then applying for a supplementary benefit. Anyway, 'mini-jobs' (see p. 32) account for slightly more than half of the cases of drawing supplementary benefits⁵⁷, whereas only every tenth min-jobber is receiving complementary benefits.

⁵⁴ A job as a prostitute is not considered acceptable but a job at the bar in a brothel is, at least for persons not claiming a strong religious affiliation.

⁵⁵ Since the same now applies to ABM, one might say that *Arbeitsgelegenheiten* framed as an employment relationship with a labour contract are now, for the recipients of *Arbeitslosengeld II*, what ABM is for the recipients of *Arbeitslosengeld* proper.

⁵⁶ Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Sabine Zimmermann, Klaus Ernst, Matthias W. Birkwald, weiterer Abgeordneter und der Fraktion DIE LINKE. – Drucksache 17/1316 – Fehlentwicklungen auf dem Arbeitsmarkt und die Notwendigkeit eines gesetzlichen Mindestlohns – Deutscher Bundestag, Drucksache 17/502 – own calculations.

⁵⁷ The gliding scale of (net!) earnings disregard actually implies that the 'mini-jobber' who receives *Arbeitslosengeld II* as a complementary benefit, unlike the normal mini-jobber, has no net advantage from

11. Since *Arbeitslosengeld II* would now be clearly distinct from insurance principles, the social partners (as representative of the contribution payers) were stripped of their statutory influence as far as this benefit was concerned.⁵⁸

So all in all, the regime in which *Arbeitslosengeld II* is embedded can be characterised by an unequivocal ‘work first’ orientation, by strong financial incentives to take up work (though hampered by wages for unskilled work tending to fall below the poverty line), by doing away with status maintenance and protection as well as with considerations of the *Arbeitsmarktordnung* (‘good order on the labour market’), by a vast re-commodification of circumstances that were previously considered ‘out of the labour market’, and, consequently, by an administrative and potentially activating grip on the whole *Bedarfsgemeinschaft* with the rationale of optimising all family members’ behaviour towards becoming independent of the benefit. This regime is called, in German, *Grundsicherung für Arbeitsuchende* (minimum income benefit for jobseekers), mimicking British JSA (job seekers’ allowance) and underlining its much more stringent work orientation in comparison to former *Sozialhilfe*, even though the majority of persons subjected to the new regime are not currently registered as job seeking or unemployed (see above). Altogether, 4.9 million persons of working age (9.1 per cent of the population aged 15 to 64) are currently incorporated in this regime, plus 1.8 million children – every sixth child under 15 is growing up in a household receiving *Arbeitslosengeld II*. Even among the registered unemployed, the recipients of *Arbeitslosengeld II* are in a majority of two thirds, though this would of course change if mass dismissals would create large numbers of ‘fresh’ unemployed with insurance entitlements.

Against the fundamental paradigm shift implicit in the merging of *Arbeitslosenhilfe* and *Sozialhilfe* into *Arbeitslosengeld II*, the long-term effects of the other parts of the Hartz reforms (I-III) seem limited, also because many of them have already been revoked as far as single instruments of labour market policy were concerned. So only a few features (not all of them technically part of the Hartz reforms) must be mentioned here: Criteria for previous contribution records qualifying for *Arbeitslosengeld* proper were further restricted, thus closing off unemployment insurance even more than before against discontinuous employment careers. ABM were made exempt from contributions to unemployment insurance, thus preventing the ‘recycling’ of entitlements through participation in direct job creation programmes⁵⁹; unlike in the case of the French RMA reforms, there was hardly any resistance against this. The maximum duration of *Arbeitslosengeld* proper for older workers was lowered from 32 months first to 18 months and then raised again to 24 before anyone had been affected by the shortening. Dispense from job search for older workers was closed for new entrants from 2009. Subsidies for ‘gradual retirement’ (*Altersteilzeit* – old-age part-time working, in practice normally early retirement through working full time in the first half and taking time off in the second) were phased out for new entrants from 2010. Following earlier legislation gradually taking effect, all premature old-age pensions before the age of 63 are being phased out. The statutory pension age at which one can draw a ‘full’ pension without penalty for premature take-

keeping earnings under the mini-job threshold of 400 Euros. However, many people concerned seem not to be aware of this. The mini-job has developed into a standard at the low end of the labour market.

⁵⁸ Also with regard to unemployment insurance and the associated ‘active’ policies, their role in the self-administration of the *Bundesanstalt für Arbeit* (renamed, on this occasion, *Bundesagentur*) was weakened as part of the ‘modernisation’ of its governance structure - cf. Klenk 2009.

⁵⁹ *Arbeitsgelegenheiten*, if not constructed as ‘working for the benefit’ but as insured employment with a labour contract, later followed in this exemption from unemployment insurance.

up is scheduled to rise stepwise from 65 to 67 between 2012 and 2027, though this may still be subject to revision. With few loopholes, we see a fully-fledged reversal of ‘early exit’ policies amounting to ‘activating’ also the elderly.

Apparent changes in labour market performance

The effects of this new regime on the labour market are ambivalent. After the ‘technical boost’ of the national unemployment count (not reflected in the ILO count) which immediately followed introduction in 2005, unemployment was since considerably reduced, and even disregarding this technical anomaly, the ratio between employment growth and unemployment reduction was more favourable than in the previous upturn. Transitions from unemployment into employment were enhanced considerably more than in the two preceding business cycles (Knuth, 2010). So it is fair to assume that vacancies created during the last upturn have been more often than previously been filled from the stock of the unemployed instead of incumbent workers being poached or the ‘inactive’ labour reserve being tapped.

On the other hand, fear of job loss has increased among the employed, while labour turnover rates have declined and attachment to current jobs has stabilised (Erlinghagen, 2010). While the employment rate increased by 4.4 percentage points between 2003 and 2007, the full-time equivalent employment rate grew only by 2.1 percentage points during this period (European Commission, Directorate-General for Employment, Social Affairs & Equal Opportunities, 2008), indicating the expansion of part-time work. Employment growth generated by the last economic upturn has been carved up into more and smaller jobs. Increasing wage dispersion, a growing low wage sector (Bosch & Weinkopf, 2008; Kalina & Weinkopf, 2009), growing shares of fixed-term contracts (Grau, 2010) and increasing market shares of temping agencies (Deutscher Bundestag, 2009) complete the picture of a downward spiral in working conditions and pay levels. So the conclusion lends itself that vacancies created in the last business cycle have been less attractive to incumbent workers whereas unemployed persons have been more inclined or pressed than before to accept them. A differentiation of unemployment-into-employment flows by benefit category reveals that the fear of the still insured unemployed to fall into the activation regime of *Arbeitslosengeld II* has instigated more mobility among them than this regime has stirred up in those actually subjected to it.

If these developments give the impression of deterioration and increasing ‘*précarisation*’ (casualisation) on the German labour market, developments in the current financial and economic crisis are puzzling by contrast. A 5 per cent slump in GDP in 2009 has hitherto hardly affected employment figures at all, and unemployment in April 2010 was lower than one year before. Conditions for receiving *Kurzarbeitergeld*, a compensation from the unemployment insurance fund for hours lost due to working short-time, were made more generous in terms of eligibility and duration than normally; yet this accounts for less than half of this retention of workers, and even for those covered by these provisions, retaining them is not free of costs for employers. If there were a clear distinction between ‘core’ and ‘fringe’ workers as classical segmentation theory would have it, and if those hired at downgraded conditions from unemployment status during the last cycle were to make up the ‘fringe’, one would expect to see at least them reappear on the labour market as unemployed jobseekers – but there is hardly any sign of this happening yet. So there must be changes in employers’ human resource policies,

possibly related to demographic change but independent of the ‘activating’ labour market regime, which are not yet fully understood.

Institutional ramifications

As pointed out before, the principal public justification for the merging of *Arbeitslosenhilfe* and *Sozialhilfe* had been the allegation that only in this way ‘services on the labour market’ hitherto divided between the *Bundesanstalt für Arbeit* and the municipalities could be merged, too, in one-stop jobcentres for all workless people. The reform was also meant to bring urgent fiscal relief to the municipalities onto whom considerable parts of the financial burdens of underemployment had been shifted for so long (see above), and so the federal budget was to cover *Arbeitslosengeld II*, thus relieving the municipalities of all their working-age and able-bodied recipients.⁶⁰ Consequently, the *Bundesanstalt*, meanwhile renamed *Bundesagentur* in order to express its organisational modernization, was foreseen to take charge of the recipients of then only two remaining benefits, *Arbeitslosengeld* proper and *Arbeitslosengeld II*, in a uniform and streamlined process to be designed around the intake process by a ‘customer centre’.

This plan was fiercely opposed, however, by the Christian Democrats then in opposition in the *Bundestag* and, through their majorities in the *Länder*, able to block legislation in the *Bundesrat*. The political-ideological justification was that the municipalities were allegedly better prepared than the centralistic and bureaucratic *Bundesagentur* to address the multi-faceted social problems of the long-term unemployed and the former recipients of *Sozialhilfe* and to administer a strict activation regime. The political interests behind this were those of county administrations (with the Christian Democrats in the majority in county councils) who feared a loss of functions⁶¹ because of *Sozialhilfe* being taken away from them (Knuth, 2006). Especially in rural counties with low unemployment, low shares of migrant population, stable family structures, and thus few lone parents, the loss of responsibility for *Sozialhilfe* (and the resulting redundancy of staff) was not set off by the modest fiscal gain to be expected.

The intricate course of affairs resulting from this clash of interests and institutional concepts – via compromises in the arbitration procedure between the two houses of parliament⁶² and later a Federal Constitutional Court ruling against the compromise that was found – has been analysed elsewhere (Knuth, 2009; Knuth & Larsen, 2009) and is beyond our subject matter here. Suffice it to say here that the most likely outcome (with legislation responding to the Federal Constitutional Court ruling just now in the parliamentary process) will be a mixed implementation and governance structure quite different from a ‘single gateway’ for all workless people:

⁶⁰ The fiscal dynamics behind the reform is developed as its principal explanation by Hassel and Schiller 2009; 2010. Important as this contribution doubtlessly is, it can neither explain the exact form chosen for the regime of *Arbeitslosengeld II* nor the constitutional dilemma that emerged out of this choice. There could have been other forms of relief for the municipalities, and it remains unclear in these authors’ writing why exactly this path was chosen.

⁶¹ With differences between the federal *Länder*, the functions of county administrations are actually very few. They are caught between tendencies of delegation to the townships of which they are made up and of centralisation in the administrations of the respective *Land* or its government districts (*Regierungsbezirke*) where they exist.

⁶² This compromise also entailed modifications of the original plan for the fiscal mechanism: The municipalities retained fiscal responsibility for the larger part of the housing component of *Arbeitslosengeld II*.

- Presently, 69 ‘licensed municipalities’ (of roughly 440) are fully in charge of *Arbeitslosengeld II* and thus, in their territories, running a completely separate and second ‘public employment service’ for the non-insured workless population in parallel to the local branches of the *Bundesagentur für Arbeit*. Following legislation currently under way, the number of these will increase to 110 (one quarter of the territorial units) by 2012 if there are enough applicants. Since the self-governed activities of German municipalities, according to the *Grundgesetz*, are supervised by the *Land* government where they are situated, this makes for complicated governance structures when administering a benefit largely paid out of the federal budget, since the federal government has no direct say over the municipalities.
- In the remaining territories, the respective municipality must form a joint venture (presently: *Arbeitsgemeinschaft*; in the future: *gemeinsame Einrichtung*) with the local branch of the *Bundesagentur*. This joint venture is incorporated as a public authority in its own right but has no staff of its own; the staffs are seconded by the two partners. The governance structure of the joint ventures is even more intricate than for the licensed municipalities in that the hierarchical chain of command within the *Bundesagentur*, the local partnership represented through a statutory partners’ assembly, and the supervision of the municipal partner by the respective *Land* government must be somehow equilibrated.

Since the joint ventures, through competing strands of control, are at least in part shielded against the *Bundesagentur*’s line of command, it seems fair to expect the whole implementation structure of *Arbeitslosengeld II*, licensed municipalities and joint venture alike, to continue developing into a fully-fledged second-tier public employment service, as they have already done from 2005 to 2010.

So the irony of German activation may be summed up like this: Instead of adapting the ‘Bismarckian’ system of unemployment insurance to the contingencies of modern labour markets and life courses, it was actually increasingly closed off in a process lasting more than two decades, thus shifting part of the burden of underemployment to the municipalities. Even so, the *Bundesanstalt für Arbeit* was unable to ‘activate’ the long-term unemployed it was left with. When it was felt that neither the *Bundesanstalt* nor the municipalities could go on like that, the solution to the problems was sought in their merging. The merged benefit *Arbeitslosengeld II* was recast in the mould of *Sozialhilfe* in order to bring dormant principles of activation inherent in *Sozialhilfe* to the fore. By doing so, the institutional path dependency of *Sozialhilfe* was invoked, and it proved therefore politically and constitutionally impossible to implement the new activation regime without the municipalities (Knuth, 2009). However, by taking them on board, one bought into exactly those professional traditions that had kept activation principles dormant for so long.⁶³ In addition, due to the intricacies of German federalism, an implementation structure involving both federal and municipal actors cannot have straightforward governance, which further impedes activation. Instead of creating single gateways for all jobseekers, Germany now has a two-tier PES – like before the reform, if one is to consider municipal social administrations as such, but now the second tier has become by far the larger one in terms of clients, resources and staff. The sheer quantity of clients subjected to the regime of *Arbeitslosengeld II* is stamping its mark on the way the labour market is functioning and on the social fabric in general.

⁶³ For a differential analysis of implementation in ‘joint venture’ and ‘licensed municipalities’ see the official evaluation: Bundesregierung (2008).

The ratio between employers' and employees' contributions

Different pillars of social insurance in different countries using insurance-type social protection may rely (1) on contributions by employers alone (e.g., insurance against work accidents in Germany), (2) on contributions by employees alone (e.g., unemployment insurance in Scandinavian countries applying the 'Ghent' system – cf. Clasen, Viebrock 2008), (3) on unequal contributions from both sides, and, finally, (4) on equal contributions by employers and employees. In France, all branches of social insurance follow principle (3), allowing for great and frequent variations as to the distribution of the financial burdens of social protection but, traditionally, with the larger share borne by employers. In Germany, by contrast, the equal sharing of contributions – the *Beitragsparität* – is a principle of fundamental quality to the extent that one would have to include it in the definition of 'Bismarckianism' as far as Germany is concerned. The idea of sharing the costs of social protection⁶⁴ equally between employers and workers is deeply enshrined in the German perception of social justice and in the idea of *Soziale Marktwirtschaft*, and the corporatist governance of the social insurance bodies with equal votes for representatives of employers and employees rests on the justification that both parties are contributing to the same extent. The trade unions fiercely resist any tampering with the principle of contribution parity because they fear that, once this principle would be broken, there would be no lower limit to employers' contributions.

In reality, however, the parity principle has been undermined in many ways, and great pains have been taken in order to uphold its façade. The voluntary *Riester* pension scheme was introduced as a complementary pillar of social protection in old age based solely on employees' contributions plus state subsidies. The rationale for its introduction was the gradual lowering of replacement rates of the first pillar pension (Bäcker et al., 2009) with the aim of containing contributions, thus effectively sparing employers the costs of demographic change. Similar mechanisms are at work in health insurance, where they take the form of excluding certain services or items from coverage, of raising extra fees for visiting a doctor, and of allowing the health insurance funds to demand surplus charges⁶⁵ from employees alone. Of all branches of social insurance, unemployment insurance seems to lend itself the least for such circumventing strategies. For one thing, the main risk insured, unemployment, cannot easily be divided in the way eyeglasses are excluded from health coverage. Secondly, the risk insured is directly related to employers' decisions about dismissals, so that it would appear particularly unjust if they were not to participate on equal terms in the financial responsibility; and, thirdly, employers benefit too obviously from certain services and provisions like vacancy placement, hiring subsidies, and short-time working allowances. All this makes the parity principle in German unemployment insurance even stickier than in the other branches of social insurance.

Besides, something like the French *contribution sociale généralisée* (CSG, see above), a hybrid between contributions and taxes, would be impossible to introduce in Germany: Contributions are dedicated for a particular branch of social insurance and must only be used for purposes related to the specific social risk covered by it (*Versicherungsprinzip*); taxes may not be strictly earmarked (*Non-Affektationsprinzip*). Therefore, the main mechanism for containing

⁶⁴ With the exception of work accident insurance because this is considered a risk for which employers are responsible alone.

⁶⁵ Since there is a quasi-market with free choice between insurance funds, it is left to the free choice of the 'customer' to switch to a fund not demanding a surcharge – as long as there is any.

(employers' and employees') contributions to unemployment insurance is the shifting of burdens to tax-funded schemes.

'Fiscalisation' – shifting the cost of social protection from contributions to national revenue

Like in France, and to a degree rarely appreciated in public debates, social insurance contributions in Germany are complemented by federal revenue. Four fundamental forms or justifications may be distinguished: (1) the state covers social insurance expenses incurred as a result of legislation that pursues general societal aims beyond the original purpose of the particular branch of social insurance (e.g., pension entitlements earned by mothers without paying contributions while they interrupt their employment careers for rearing young children; (2) the state subsidises social insurance for the purpose of containing contributions (the German pension fund since the introduction of the 'ecological tax' 1999⁶⁶; state subsidies to the health insurance funds according to their different morbidity structures through the national *Gesundheitsfonds* since 2009); (3) the state guarantees to cover budgetary deficits of a system of social insurance (the old mechanism for unemployment insurance in Germany; now changed to mechanism 2); (4) certain risks, clients, provisions or operations are shifted from the responsibility of an insurance scheme into a tax-funded scheme.

The abolishment of *Arbeitslosenhilfe* and the introduction of *Arbeitslosengeld II* (the Hartz IV reform) may be seen as such an example: Though *Arbeitslosenhilfe* was tax-funded, its administration through the *Bundesanstalt für Arbeit*, the services it extended to the recipients of *Arbeitslosenhilfe*, and the cost of active measures provided to them were paid from the unemployment insurance fund. Since the introduction of *Arbeitslosengeld II*, the renamed *Bundesagentur* is now reimbursed for these costs. Consequently, the majority of the *Bundesagentur's* employees are now effectively on the federal payroll rather than being employed at the expense of the contribution payers. Furthermore, the tightening of criteria for entitlement to *Arbeitslosengeld* proper with regard to previous contribution records, plus the shortening of maximum periods of eligibility for older recipients have shifted clients from the insurance-type benefit to the MIB, *Arbeitslosengeld II*. This allowed a gradual reduction of unemployment insurance contributions from 6.5 per cent (3.25 per cent each for the employer and the employee) to 2.8 per cent (1.4 per cent each), the lowest level ever since 1975.

The 'mini-job' privilege

In the course of the Hartz reforms – though not exactly in accordance with the recommendations of the Hartz commission on this point – the traditional tax and contribution privilege for 'marginal employment' (*geringfügige Beschäftigung*) was amended once again, after many times before, under the political label (not introduced in the legal texts) of 'mini-jobs'. Though not traditionally considered an instrument of 'active' labour market policies for the unemployed, the Hartz reform context caused the reception of the mini-job reform as means of 'activation' by some observers. French-writing German observers were ready to please their audience with *déjà-vus* by subsuming the new 'mini-jobs' under the category of « *emplois d'insertion* » (Veil, 2005: 16), whereas some autochthonous French observers were more precise (e.g. Chagny, 2005). An employee in a mini-job as his or her only job, defined as a job earning a maximum of 400 Euros per month, is free of social insurance contributions and of taxes for this job. In turn,

⁶⁶ Though the introduction of the ecological tax and the increase of budgetary subsidies to the pension fund were politically connected, the ecological tax is not an earmarked tax.

such a job will not earn any social insurance entitlements.⁶⁷ The employer⁶⁸ now (2010) pays 31.08 per cent in contributions and as a non-progressive income tax. In order to overcome apparent lock-in effects, a gliding scale for employee's contributions setting in gradually between 401 and 800 Euros was introduced, but with little effect in terms of take-up of these so-called 'midi-jobs'.

Obviously, these provisions look quite awkward if one were to consider mini-jobs as an instrument of 'activation' by providing higher incentives for hiring or for taking up a job out of unemployment: For the employer, the 'non-wage labour costs' are even higher than normal, while the employee is excluded from social insurance despite the contributions the employer is paying as a sort of penalty for creating non-standard employment. This apparent riddle can be solved by looking at the legacy of 'marginal employment': It was invented in the labour shortage during the 1960s as a means to attract female labour without changing gender arrangement or the male breadwinner model which had just been restored through the 1950s social protection reforms. By limiting the number of hours worked to 15, the domestic role of women would not be interfered with; and since these women as spouses were already covered by their husbands' health insurance, would participate in his pension and would later inherit a widows' pension, it would have been unattractive for them to pay social insurance contributions without an apparent gain in entitlements. Furthermore, through a non-progressive tax on the small job, the additional family income resulting from the wife's small job was taken out of progressive family taxation and left the tax privilege for married couples⁶⁹ untouched. This is but another empirical example of the differing relationship, to some extent embedded in a historical legacy, that both France and Germany have to the actualization of their 'wage-labour nexus'.

The exact rules for 'marginal employment' have been changed many times, replacing the maximum of hours worked by a maximum in earnings, but this provision has never quite lost its characteristic as a scheme for employees whose social protection is derived otherwise: an employment scheme for housewives, pensioners, students, and as a second job. The re-regulation of 2003 has led to a rise from about 5.5 million in 2003 to around 7 million mini-jobbers in 2009. It is unknown to what degree this is due to legalising previously undeclared jobs, whose registration has been made easier through the reform. Take-up from unemployment is still rare, and, technically, taking up a mini-job will not end unemployment by national definition if it entails working less than 15 hours.

3.2 France from 2007: reorganizing the Public employment service and reforming minimum income, along a sustained decreasing of labour costs: a new strategy caught in the 2008 economic crisis

⁶⁷ There is an option for voluntary contributions to the pension fund, and there are recent regulations on health insurance if not otherwise covered.

⁶⁸ More favourable conditions apply to employment in private households.

⁶⁹ According to this system of taxation still in effect today, the income of both partners will be added and halved, and then each half is taxed according to the progression scale, thus giving a tax privilege to couples with unequal earnings or with one partner not gainfully employed.

With hindsight, characteristics of the French “activation strategy” appear as gradually implemented, and eventually amounting to the settlement of a rather stable mix of interventions, until the new presidential election in 2007. In section 4, we will reflect briefly about the overall impact of more than 20 years of such a strategy did not really match expectations and ex-ante goals announced by successive governments, as was also the case in most countries. Yet, in 2007, the new French president announced a considerable list of reforms, and, by the end of 2008, legal base was given to kick off the implementation of these. The list of Acts passed at this period is impressive, as well as their areas of application: reform of the Public employment service, merging of MIBs (a clear instance of similarity with Germany) simplification of subsidized contracts, reform of the rules for the representativeness of social partners’ organizations, especially unions, reform of employment contracts in the labour market. On all these subjects, it was widely considered by French actors at the time that sharp turns were started. Equally, on all these subjects, it was considered that the new government intended to reform the French arrangements in *a systematic and systemic way*, in the direction of more flexibility and more explicit ‘activation strategies’. However, bar the reform of social partnership, all implementation processes directly clashed with the 2008 crisis. It is thus impossible to tell whether the post-2007 decisions would have eventually resulted to *a really new* (and not only theoretical) ‘activation rationale’, in the absence of the crisis. It is certain that new conceptions were developed that could be, just as the Hartz IV reforms in Germany, seen as exemplifying a ‘paradigm shift’ in France in these policy fields. Nevertheless the actual manifestations of it are still to materialize in actual terms.

Overhaul of the employment service

The first reform being implemented was the merging of the UNEDIC/ASSEDICs and the PES (*Agence nationale pour l’emploi*). The French parliament passed the Act in February 2008, whereby this merge was decided for January 2009. When the merge was implemented (which in any case would have taken a long time), it was intended that placement and income replacement activities would be combined under the future single institution’s responsibility. UNEDIC only kept overall decision for the social partners’ jurisdiction, while ASSEDICs and local ANPE agencies were merged under the new name, *Pôle Emploi*⁷⁰. Social partners retained their competence in the management of unemployment insurance (the fixing of social contributions and the balancing of budgets for the fund, notably), while the unemployed were now the ‘clients’ of a single entity, that not only pays their benefits (PARE and ASS), but also delivers them the whole scope of services and ALMPs. The reform of the PES and its predicted merging with the unemployment insurance fund had been on the agenda for many years. It was presented by the new government, in 2007, as a key factor for enhancing the effectiveness of labour market policies and institutions. However this never materialized so far, because of the sudden increase of unemployment (from 7% in 2007 to about 10.5% in early 2010), that produced large and persisting internal difficulties in the new institution *Pôle Emploi*.

Another ‘activating’ measure is in jeopardy at the time of writing: the DRE is supposed to be cancelled by the year 2012, obliging many – if not all recipients concerned, to look for work. However, in early 2010, around 320,000 still enjoyed the ‘*dispense*’. It is difficult to know today what the situation of the labour market will be in two years’ time⁷¹. Finally, from mid-

⁷⁰ *Pôle Emploi*, means something like „The reference for employment“. This is a clear marketing change, like the *Agentur* instead of the old-fashioned *Anstalt* in Germany.

⁷¹ During the discussion of the pension reforms (Autumn 2010) new measures were envisaged for the long-term unemployed.

2008, a new Act implemented a new definition of ‘*offre raisonnable d’emploi*’ (normal or acceptable job offer) that restricted the scope for reasons the unemployed could refuse the offers⁷². It was clearly an “activation” mechanism, despite the fact that, at that time, the president also instrumentalized its announcement for political communication. Inasmuch as something is known about the present very difficult situation of the PES (especially in terms of training and of human resources management), it is generally considered that the actual implementation of new sanctions has been, de facto, suspended.

RSA, the end of the legal unconditional right to RMI in turbulent times

Certainly however the reform which the government wanted the most to change the French activation mix of programmes was the introduction of *Revenu de solidarité active*. Here the reform dealt, as in Hartz Germany, with the lowest safety net. When the reform was mooted in 2006-2007, some imagined that all working-age MIBs were to be merged into a single one: ASS, API, RMI and AAH. At the same time, the idea was circulated according to which all beneficiaries would be compelled to register at the new PES (*Pôle Emploi*) and to look for work – an obligation that, as was shown previously, was never imposed nor implemented legally before. Thirdly, another simplification was to be implemented: instead of the four types of subsidized contracts existing in 2007, a single contract would replace them, unifying employment conditions in the private and in the non-profit sectors. Finally, RSA was also to be merged with the existing *Prime pour l’emploi*⁷³ the supposedly ‘activating’ and incentivising tax credit that all existing evaluations considered as unable to really provide credible incentives for people to take jobs. This comprehensive programme of reforms was hailed as consistent and gained partisans in many sections of the public, and crossed party lines to the opposition. At the end of the day, the system was to be built on a new ‘activation rationale’, that of “working more to earn more” (“*travailler plus pour gagner plus*” was the presidential motto): as in *Arbeitslosengeld II*, any working-age MIB recipients would be ‘incentivized’ to take a job, and at the same time keep his/her benefit to a certain limit, and possibly as long as his/her new job did not pay more than the limit. It was a clear shift, paradigmatic certainly, when compared to Republican *insertion*.

However, things did not go as predicted. The RSA Act, symbolically voted on the 1st of December 2008, twenty years after the 1st December 1988 (RMI Act), was to be implemented from June, 1st, 2009, and so it was. However, AAH and ASS benefits remained outside the scope of the merge. Only API and RMI were merged. Moreover, the *Prime pour l’emploi* was merged on the same day for recipients with income lower than the minimum wage⁷⁴, but, as statistics now demonstrate for early 2010, non-take up of the new merged benefit by former PPE recipients was extremely high. All in all, the immense majority of former RMI and API recipients make for the bulk of the caseload, and on two counts that can benchmark a degree of ‘activation’, present figures are not very favourable: (a) the proportion of RSA recipients registered with *Pôle Emploi* is at about the same level as it was before the reform⁷⁵; (b) the

⁷² Graduated sanctions were codified in law, and conditions for refusal (as, for instance, the duration of transportation to and fro the place of employment) were also detailed.

⁷³ For beneficiaries with wages at the level of the minimum wage and below.

⁷⁴ PPE is still in operation for taxpayers with incomes superior to SMIC.

⁷⁵ Although it states a *general obligation* of recipients to look for work, the RSA Act envisages that recipients do not register at *Pôle Emploi* and exercise their obligations with other associations or units designated by the *Départements’* authorities (*Conseils généraux*). This ambiguous provision is linked to the fear of communication of higher figures of unemployment.

proportion of RSA recipients who combine their benefit with a supplement linked to their employment – although tricky to compare with former proportions – has not been altered significantly (this is another clear difference with the German situation where the number of recipients of *Arbeitslosengeld II* rose sharply). In a way these still inconclusive and partial statistics lead to the assumption of a very limited impact in terms of a renewed ‘activation strategy’, while, on the other hand, one of the main provisions of the RMI Act was cancelled, as to the unconditional nature of the right to RMI⁷⁶: the right to RSA is now conditional to looking for work whether by registering at *Pôle Emploi* or by organizing similar contacts with the *département* local administration (this applies to all the members of the household benefiting from RSA; just like in the German *Bedarfsgemeinschaft*).

Finally, as of January 2010, a new *Contrat unique d’insertion* (CUI = single subsidized contract for insertion) has replaced, as was expected, the various contracts existing before: conditions of wage-based employment under the contract are now homogenized, and apply in the private and the non-profit sectors. These subsidized contracts, part of the ‘activation supply’ to the long-term unemployed and to the target groups selected by the employment policy, are not very different from the previous mainstream *Contrat emploi-solidarité* analysed above (a part time of at least 20 hour or a full time contract for 6 to 24 months⁷⁷). With the crisis in 2008, the government has announced the funding of more of these contracts for the year 2010. Taken together, the early 2010 stock of holders of such contracts has again started to rise with unemployment, and the pre-2000 levels of use of such contracts could compare with what happened at the time. However, with respect to the link of income of persons in assistance, a shift has also occurred because a new situation has tended to become ‘normal’, i. e. the *de facto* acceptance that the working poor have to combine (i) a mainstream contract (*un contrat de droit commun*) with all rights to social protection attached (albeit proportionally to the duration of the work performed, dominantly part-time), and (ii) an assistance benefit (RSA, with no wage-earner status and no attached social protection rights, like pension and unemployment insurance). In this respect, thus, the Hartz IV and the RSA consequences appear similar, and they are going to become even more similar as current German austerity legislation will do away with the minute pension insurance contributions symbolically paid for recipients of *Arbeitslosengeld II*.

Summing up: the crisis erasing shifts in activation strategies?

All in all it is difficult to analyze the state of new ‘activation strategies’ in 2010 France, after the sharp turn introduced by the new policy decided after the presidential election. Yet, the massive impact of the 2008 crisis has restricted the leeway for implementation of a majority of new initiatives, so that in early 2010, the picture of ‘activation strategies’ does not significantly differ from what was happening in 2005. Still in place are the structural reduction of social contributions (again reinforced by the adoption of the TEPA Act (2007) that further decreased

⁷⁶ Former Article L-115 of the code read « *toute personne qui en raison de son âge, de son état physique et mental, de la situation de l’économie et de l’emploi se trouve dans l’incapacité de travailler a le droit d’obtenir de la collectivité des moyens convenables d’existence* ». This has now been replaced by « *l’insertion sociale et professionnelle des personnes en difficulté concourt à la réalisation de l’impératif national de lutte contre les exclusions* ».

⁷⁷ In the public and non-profit sector, subsidization can amount to 95% of the wage, while it is limited to 45% in the private sector.

social contributions and taxes on overtime work⁷⁸), a large stock of employment programmes, a diversified MIB system⁷⁹ with associated subsidized contracts and other actions, and finally, a limited impact of ‘activation’ both in the family policy area, and in the domain of ‘activating the older workers’, despite constant attempts at doing more in this direction (including postponing the retirement age). However, such a taking stock of the group of reforms passed in 2007-2008, for obvious reasons, remains transitory.

4. The consequences the activation of social protection has had in Germany and France, as in other countries

Assessing precise consequences of piecemeal and separate programmes, here and there, has led in both countries to the development of sophisticated expertise, and, in particular, to the renewed fame of ‘random control trials’ evaluation studies⁸⁰. Such studies, and other impact evaluations using other methods, have been numerous in both countries and have, if cumulated, led to limited findings: these are able to identify differential effects in terms of income, of labour market participation, etc., for certain groups of recipients or participants over certain periods, provided business cycle effects are neutralized (for instance with fixed-effects methods). Nevertheless, they cannot be used to provide the answer to the wider and most important question, which is: how can one identify the diversified effects on the systems and the persons? In our introduction (section 1), we identified four main possible effects: (1) the changing discourses of rights and obligations, (2) the promises of favourable outcomes in terms of higher labour market participation, lower poverty, and lower social exclusion, (3) the reform of the architecture and systemic logic of the systems of social protection, and (4) finally, the effects on rights of ordinary citizens.

In section 3 we have shown that considerable changes were implemented in the systems and benefits in both countries. We will now come back to the wider implications of the reforms with regard to the promises politicians made when they started the reforms. Similar outcomes and consequences are observed in many European countries and in the USA, although always national institutions, practices and cultures do modulate these in national (or even regional) settings⁸¹. Incidentally, one of the common conclusions drawn from the analysis is that reforms eventually confirmed their capacity to contain costs, in a time of austerity (Barbier, 2009). What is probably more important is the global statistical evidence as to the cost-containment countries have achieved with regard to their social expenditure in the area of poverty, social exclusion, assistance, disability and unemployment over the last ten years, before the economic crisis was sparked off. Unfortunately, this cannot be documented in detail across many countries, where research has still to be conducted empirically. Another overall conclusion consists of a blunt assessment: none of the promises articulated at the beginning of the implementation of “activation” were held. We already saw that they were three of them.

⁷⁸ According to official evaluation of the macroeconomic impact of the Act, published in May 2010, the Act’s consequences were unable to contradict more dominant effects of the 2008 downturn.

⁷⁹ France still has three working-age minimum income benefits: ASS, AAH and RSA. However RSA itself tends to be ‘two-tiered’ because the great majority of recipients today still do not work, thus denied access to the differential premium: operational vocabulary distinguishes between “*RSA socle*” and “*RSA chapeau*”, which tells a lot.

⁸⁰ The fame is ‘renewed’ inasmuch as these techniques were introduced in the USA in the 1960s.

⁸¹ For lack of space, we only stress essential features and we are unable to draw a comprehensive picture of the consequences of ‘activation strategies’ in both countries.

The three promises

Before the present crisis, reforms devised for activating social protection have taken place, overall, in a rather favourable economic context, especially in the last ten years: circumstances should have been optimal then for their success. However, the general picture is rather bleak, while some piecemeal aspects point to improvements.

With regard to labour market participation of citizens, after the implementation of ‘activation strategies’, a significant proportion of the working-age population is still inactive: normatively, the OECD classifies them as ‘dependent’ upon benefits. It is difficult to document the recent years on this subject in a fully comparable way. However, superficial analysis points to the fact that the best that activation strategies could have achieved in any case, was maintaining the overall employment at the same level (in terms of hours worked), meaning that ‘job creation’ also entailed some ‘sharing’ of working time, and the conservation of rather constant levels of atypical and low quality jobs, while working poverty tended to become entrenched in European labour markets (see Giraud and Lechevalier (2010) for Germany and France)⁸². Before the 2008 crisis struck, this was the situation observed even in countries like the UK, that was often hailed as a success story for its effectively enhanced employment support services in the 2000’s and the success of its tax credits. Yet, despite its undeniable investments into the employment service and other activation strategies, the UK has remained, among older EU member states, the one which possesses the greatest proportion of ‘bad jobs’ in the workforce.

Regarding poverty, the situation is not even and it varies according to countries, and to categories in their population. However, one general conclusion of our observation is that the promises to eradicate poverty, for which essential strategies have been part of the activation programmes and reforms – what was termed ‘make work pay’ programmes, or the introduction of ‘incentives’ – have certainly not been fulfilled. Whereas successes were hailed in Britain, with changes targeted on certain types of families, especially single parent families, the performance of tax credits has tended to decrease systematically and the Rowntree Foundation monitoring of the UK government’s strategy concluded that it could not reach the goals the former Prime Minister had set in the late 90’s⁸³. While clear improvements were registered in this country, they were targeted on the most vulnerable of children and not systematically attributable to ‘activation strategies’: however, the strategy of eradicating poverty, which was never achievable before the economic crisis, will probably not be achieved in the near future. In France, poverty rates have remained constant over the last five years, but poverty situations are more durable and causing deeper hardship, after some twenty years of combining special subsidized contracts and a variety of minimum income benefits. The situation in Germany, after the Hartz reforms were implemented the situation does not seem to be dissimilar from the French situation: however data are still lacking for the most recent years after 2005. In the USA, although according to some criteria, the Clintonian ‘welfare reform’ was considered a success, poverty rates were never seriously touched over the last decade: assistance beneficiaries had to compensate their loss of benefits on the market, hence becoming more ‘active’, but they stayed poor all the same in their majority. Obviously, Denmark and Sweden –not to mention Norway

⁸² Which, by the way, also applies, according to some statistics, to Scandinavian countries: however this is linked to the special patterns of employment and education of the young in these countries.

⁸³ The Blair government promised to halve child poverty by 2010 and eradicate it by 2020. Despite the undeniable achievements of the first stage of the strategy, the situation was reversed in 2006-2007, when child poverty again re-increased. The Rowntree Foundation has noted at the end of 2007 that the tax credits were less and less effective (see also *The Economist*, “The poor, always with us”, June 14, 2008).

of course – after their ten years of activation strategies remain, as they were before, the most generous countries, the most equal, and those where poverty rates and damaging marginalisation are at the lowest. Note, in passing, that, according to practically all studies, the very sophisticated Danish strategies never achieved a significant contribution to employment creation.

When inequality (between classes, skilled and unskilled, men and women, old and young) is considered, one first fact appears: in countries where the liberal type of ‘activation’ – the ones which involved tougher sanctions and more stress on incentives – has been implemented (the UK and the USA) inequalities have increased more than in countries with more generous social protection coverage. Additionally, despite (or because?) ‘activation reforms’, the proportion of people exposed to social exclusion – or to ‘marginalisation’ (*marginalisering*) in Denmark for instance – has not changed significantly over the last years. It can certainly be argued that, in the absence of such reforms, this proportion would have been higher, yet this conclusion remains to be documented. While apparently similar programmes of ‘activation’ were announced and implemented across Europe, the relative contrast of the richer and more generous systems of social protection with the poorer and pettier ones, has remained constant as the contrast between Sweden and the UK, with similar mean living standards, exemplifies (Barbier, 2008b). Hence, here again, in times of favourable economic conditions, ‘activation’ political promises were not fulfilled. At best, as also the French case exemplifies, the introduction of minimum income benefits and associated special employment contracts – a feature typical of the French ‘way’ – has, at best, prevented a fringe of the population from being drawn to greater hardship and kept them in precarious jobs, subsidized contracts and working poor situations.

Damages to ‘citizenship’? The problem of stigmatization and ‘recognition’

Numerous studies have and are being conducted today about *the substance of rights* for citizens, with the assumption that ‘social citizenship’ in this sense has deteriorated. We lack space here to go into the details of such an exercise. In France, back in 2005, we showed that activation strategies, when examined in their empirical detail did not evenly ‘damage’ social and political rights and that a clear divide separated observed effects for insured citizens and for assisted citizens. Effects were also differing clearly for women (as opposed to men) and for the young (as opposed to ‘adult’ citizens) (Barbier, 2005). This overall assessment can easily compare with what happened in Germany. After the abolishment of *Arbeitslosenhilfe*, there is no provision ‘between’ unemployment insurance and the MIB ‘activation regime’ any more. Consequently, the quality of social citizenship perceived by the insured unemployed is (arguably more strongly than in France, with ASS still in place and unchanged) heavily influenced by fear of losing social status after exhaustion of insurance benefit eligibility. This fear is apparently lowering ‘reservation’ wages and producing more ‘activation’ among the insured unemployed than among those subjected to the really strict ‘activation regime’ in the MIB. The outcomes are mixed: Tendencies of wages ‘fraying out’ at the lower end and of deteriorating working conditions are being reinforced by ‘activation’; but more unemployed people are finding jobs.

Finally, another observation remains, difficult to objectify and to compare between France and Germany. Even in cases of generous ‘activation systems’ as in Denmark and Sweden, ‘activation’ did not preclude that citizens and groups of citizens experienced a relative

degradation of their situation (Goul Andersen, 2005). In this domain, studies and surveys really comparable across countries are very rare: national exploratory studies exist (Paugam et Duvoux, 2008, for France; Bothfeld, 2008 for Germany). Yet two problems arise for building a really comparative appraisal of the question for two reasons. The first one lies in the difficult question of the objectification of the legitimacy and support for reforms: such support and legitimization only takes place at the national level, in a particular polity and it is always a difficult task to assess this legitimacy and support, which varies according to groups of population, but also, with time and adaptation and learning to the reforms conducted in any particular national setting. Secondly, considerable national variation has persisted in this respect (Barbier, 2008a). In certain countries, the strategy for activating social protection, including its reinforced behavioural demands, has been accompanied over the years with large and open public debate. In the Scandinavian countries, which correspond to the latter case, the construction of a broad legitimizing consensus, be it of a conflictual nature, has been based on the perception of extensive reciprocity. The situation has been very different in other countries, like Germany, France or the United Kingdom, when activation reforms were introduced. However, appraising this question in comparative terms is a task that appears difficult because legitimization processes occur within national boundaries (or sometimes, infra-national spaces) for constructing national solidarities and reciprocities, which do not exist – at least so far, across nations, at the EU level (Barbier, 2008a). The question can also be put in terms of ‘recognition’ (*soziale Anerkennung*) (Paugam et Duvoux, 1998). However, on all these questions, no really comparative cross-national research exists so far. The major difficulty lies in the possibility for social scientists to approach and capture such questions and render different national normative settings compatible with each other, while at the same time distancing themselves from their own national and unavoidable bias.

5. Concluding remarks

Comparing France and Germany is not only interesting for learning about the striking similarities existing between both countries, the common elements present in their long history of social insurance, those they borrowed from one another, and on the other hand their persisting differences. It is also interesting because, in the European Union, both large countries play a role which is not negligible while being generally considered as part of a common, vaguely defined ‘model’, the so-called ‘Conservative-Corporatist’ type of welfare regime. The detailed empirical inquiry that we have presented in the previous pages makes possible to draw three conclusions and to put them in the wider perspective of what has recently been discussed under the theme of ‘dualization’ in ‘Bismarckian’ states.

(1) The traditional classification of welfare regimes was always in doubt for the understanding of the dynamics of social protection (Barbier and Théret, 2001; 2009). Moreover, it has also been especially difficult to match regimes with corresponding realities across all sectors of social protection. ‘Activation strategies’ is certainly a case in point illustrating this difficulty. The stylized institutional setting of both countries only explains some characteristics of the story. It is true, as Clasen & Clegg (2006) have shown that social insurance and the implication of social partners in its governance and steering are factors that have impeded an ‘activation rationale’ to smoothly settle upon Germany and France, as they had in the UK and Denmark in the mid- 1990s. That common heritage of the big ‘Bismarckians’ is without doubt,

as also the tradition they have had for a long time of accommodating various groups of interests and statuses even among insurance beneficiaries, with different benefits. However, many other factors can be seen in the functioning of present systems. Political cultures active in social protection are one: symbolic conceptions of justice are present in both countries, which are strikingly different. Although the manipulation of levels of social contributions eventually became one key factor of the French strategy, it was less readily available in Germany, because of the traditional importance of an equal sharing of contributions in this country (*Beitragsparität*). Elements pertaining to these political cultures date back very far in history: this is the case of the religious roots discussed by S. Kahl (2005), but also the case exemplified by the amazingly lasting impact of the imprint of the French Revolution on the invention of Republican *insertion*, that was certainly a precursor of ‘activation’ *avant-la-lettre*. Although very different in their moral and political justification, the German principle of *Menschenwürde* as an obligation for the state to protect and the French principle of the debt of the state towards citizens (Barbier and Théret, 2001) make the German and the French systems closer to one another than they are to the Beveridgeans. However they remain different.

Another case in point is the role played by the minimum income benefits we have exemplified in both countries: in a way, the ‘activation rationale’ – at least the part of it concerning the unemployed and the poor – came from them, but, even then, the pace and outcomes of reforms in both countries is now, in 2010, very different. If we see ‘activating’ principles once dormant in a residual system interact with the insurance system and taking influence over a country’s employment model as a whole, the exact nature and tradition of a country’s residual system of MIBs becomes a relevant question. In this paper, we have highlighted differences in the wording and ideological framing between RMI and *Sozialhilfe*, but we still stand short of an adequately qualifying term. Yes, if we superficially apply conventional typologies, the German system of social protection against unemployment has become more ‘liberal’ because ‘residual’ provisions have displaced wage-replacing provisions to considerable extent (Mohr, 2008). But is the tradition of *Sozialhilfe* itself a ‘liberal’ one? Does it make a difference whether a national employment model and welfare regime are ‘activated’ by building on principles of German *Sozialhilfe*, of French RMI, or Danish *sociale hjælp*? In order to answer such questions, one has to go back to the religious roots of poor relief and follow up on their secularisation and institutionalisation, which could only incompletely be done in this paper. To a certain extent but differently, ‘residualism’ is also present, by the way, in the Scandinavian welfare regime, and the role social assistance (or its equivalents) plays within national welfare regimes has probably been under-researched in international perspective. So by saying that France and Germany are ‘hybrids’ because, in both countries, Bismarckianism is combined with residualism we are not really saying anything new. This has been said for a long time for France (Barbier and Théret 2004/2009).

Another aspect of the differences concerns the collective reference to the wage-earner status. We refer here to an analysis inspired by the Régulation school of economists in France, who identify the *rapport salarial* as a key element of the economic and political ‘nexus’ (or, the social compact). Germany and France have always been seen by them as differing models of a wage-earner society, adapting differently to crises and pressures (Boyer, 1986). What we learn in comparing both countries is that the relationship of social assistance to the mainstream situation of a wage-earner has remained different, despite the dominantly common economic features, at a general level of abstraction. Whereas the French state was always expected to act as an employer of last resort, (though it performed this role in a very petty manner), the German state never was expected to as a fundamental obligation. While, from the 1980s, the French state systematically resorted to large scale ‘employment programmes’ (of which we analyzed the

typical ‘contrat aidé’) this was not the case in Germany. This difference also has to do with political and economic choices made after the war, and the special understanding of the roles of the state and the market.

Accordingly, we saw that much of the ‘activation strategies’ that directly targeted the unemployed and the assisted persons have tended to rather originate in the assistance sectors. This dynamics would not exist, of course, if France or Germany had only contribution-based insurance-type or only tax-funded MIB-type systems. However, a national welfare regime exclusively based on entitlements earned through employment-related contributions is incomplete because there will always be circumstances that prevent people from having earned an insurance-based claim. Esping-Andersen’s (1990) contempt for ‘residualism’ (the share of it being a measure reciprocal to de-commodification) corresponds to his failure to make a difference between the Mediterranean and the Conservative type of welfare regimes: Worse than having a large share of ‘residual’ provisions is the lack of them in Southern countries. Therefore, developed ‘conservative’ or ‘Bismarckian’ welfare states will always have an undercurrent of ‘residualism’, which may well tend to grow as life courses and employment careers become more contingent, with the exact proportions between the two depending on whether insurance systems open up or close themselves off against the volatilities of the employment system. It seems nevertheless that in both countries, dynamism for far-reaching reforms of the ‘activating’ type did not emerge out of the unemployment insurance regime but more from the safety net provisions for income support, but with potential repercussions on the insurance regime. Hence, the blurring between traditional ‘sectors’ of social protection that we were alluding to in the introduction has tended to be more and more evident.

Both French RMI and German *Sozialhilfe* comprised ‘activating’ principles, however dormant they may have been for decades. Dormant activation principles in *Sozialhilfe* were more narrowly work-oriented, they lacked economic justifications for not being able to work⁸⁴, and they were directly in conflict with competition-dampening labour market regulation and with status-preserving rules for the acceptability of job offers. This may explain why these rules were kept dormant for so long, but also how they are currently unfolding such a radical potential after having been transferred from the field of poverty relief to mainstream labour market or ‘employment’ policies. In the French RMI context, by contrast, one only has to discover that the best way to achieve social inclusion (*insertion sociale*) is inclusion in employment (*insertion professionnelle*)⁸⁵ in order to arrive at the emphasis put on work and employment for recipients (more so, obviously with the introduction of RSA), without, however, the deregulatory implications we observe in Germany, *at least so far*. It remains to be seen which dynamics the RSA reform will unfold in the next upturn, if it is to survive until then, and whether this will have repercussions on the employment options of the insured unemployed. The survival of ASS as a buffer, if only of psychological nature, will make a difference. With the Hartz reform, Germany went much farther than France, which seems to still hesitate in the midst of the present economic crisis. And this will lead us to stress the question of the ‘timing’ of reforms in a moment.

⁸⁴ Cf. footnote 76, original text, where the economic and labour market situation could justify the inability to work in the French RMI context.

⁸⁵ Cf. footnote 76, new wording.

(2) Secondly, differences between sectors of social protection and policy areas certainly matter. This cannot easily be captured by the welfare regime approach. It is well known that, for instance, family policies in France have kept their originality also bearing on the labour market, especially with respect to the situation of the young. But ‘sectors’ are not administered similarly in France and Germany. We have documented the importance of the various ‘levels of government’ contrasting both countries. Their differences, which as is well known leads the existence of various ‘veto points’, is illustrated here in the case of the Employment service and the role of municipalities in Germany (which cannot play the role of a functional equivalent of the départements in France). Obviously, the two political systems react differently to external shocks. The centralistic French system tends to react more flexibly, not to say in opportunistic ways, thus possibly backing up in the midst of reforms or letting them falter in the vagueness of implementation. Often characterised as immobile because of its numerous checks and balances, the German political system simply cannot back up once a reform process has been set in motion, for the simple reason that there is no centre of power which could take responsibility and reap a short-time political dividend for doing so. So rather than restoring endangered popularity by calling off a reform, as French presidents would do, the German Social Democrats went through the ordeal of reforms they had initiated at the expense of a prematurely terminated chancellorship, the breaking away of a new left-wing party, and subsequent tremendous electoral losses.

Clear differences also separate Germany and France as to the reforms of funding mechanisms of social security. The symbolic political importance in Germany has probably helped much in maintaining equal sharing of social contributions between employers and employees, at least on surface; while, in France, this principle was not applying, leaving the door open to manipulating employers’ social contributions on a grand scale. At the end of the day, though, both countries today have a similar share of their social protection expenditure coming from taxes (more than one third of the bill). Clear stakes linked to institutions *par excellence*, e.g. the institutions of federalism/centralism and decentralization, have also had clear, important consequences on the eventual strategies chosen, especially in the 2000s.

In both countries, we find a coincidence of benefit reforms, namely a merging of non-insurance benefits in Germany and a partly failed attempt at it in France, and an organisational reform of what is commonly called the Public Employment Service. However, this is only a temporal coincidence in France: The merging of unemployment insurance (ASSEDICs) with the PES (ANPE) is not directly related to making two MIBs, administered by regional authorities, more work-oriented. In Germany, by contrast, the unintended differentiation within the PES (to the extent of its actual duplication through municipalisation in one quarter of the territorial units) and political and constitutional struggle around this issue has been in the forefront of the reform process to the degree of obscuring and hampering ‘activation’ issues. Nevertheless, like in a Hawthorne experiment where turning the light up or down has the same ‘activating’ effect, the strain of reorganisation and the inherent competition between different organisational forms has had an ‘activating’ effect in itself. This mechanism seems to be lacking in France, and it remains to be seen whether the merging of the insurance and the job placement function will have any ‘activating’ effect.

(3) Thirdly, despite numerous similarities, one very different element is the *timing of reforms*. This timing is linked to internal national decisions and to power struggles happening among relevant actors – whatever the dissemination of common, sometimes called ‘neo-liberal’ ideas. Corrections of reforms, when they happen – as for instance the failed reform in France in 2003-2004, and the change brought to the situation of the older in Germany, under the *Grosse*

Koalition need compromises to be struck and internal decisions to be achieved within each political system. We think that this explains a lot about what happened in the two big ‘Bismarckian’ countries.

Whereas France, compared to Germany, was a latecomer both in introducing a national scheme of unemployment insurance (1958 as against 1927) and a modern equivalent for social assistance (RMI, 1988, as against 1962), its Republican-grounded discourse about *insertion* always carried an ‘activating’ undertone, although not in the narrow sense of ‘work first’. French attempts for adopting the philosophy of ‘activation’ in the insurance regime came earlier than in Germany (AFR 1988, AUD 1992, PARE 2001, attempt for ASS reform 2003). German ‘lateness’ can be explained by the problems of unification which made Germany resort to a massive use of traditional ‘active’ policies of providing paid alternatives to unemployment and thus reducing the excess of labour supply. When Germany finally came around to ‘activating’ reforms, these were all the more radical and happened to be discussed and implemented during recession, thus being in place to be effective, in certain ways, when economic recovery came in 2006 and 2007. France, by contrast, discussed its latest reforms during this recovery so that the start of its implementation seems to be currently thwarted by the shock of the crisis.

A more comprehensive review of differences between France and Germany would also need to explore the differing consequences ‘activation strategies’, and especially those in the 2000s, have had on different groups of the population: the young, the older, women, migrants and their families, notably. First insights, especially with regard to the gender dimension have shown that women have, again, been disadvantaged (Giraud and Lechevalier, 2010; Barbier, 2005; IAQ et al. 2009), whereas results with regard to clients with migrant backgrounds are mixed (Knuth 2010b).

(4) Finally, we have seen that, in France and in Germany the ‘promises of activation’ were essentially not met. But these countries are not special in this respect. Colleagues however have recently discussed a process that they see as one of ‘dualization’ *especially* in ‘Bismarckian’ countries (Palier and Thelen, 2010). In ‘regulationist analysis’ terms, the prevalence of the wage-earner relationship (more that often linked in both countries with what is called in German *Normalarbeitsverhältnis*); because of the development of a-typical employment, and the emergence of *Prekarität* in Germany (later than in France – Barbier, 2004b), it is undeniable that the traditional full-time employment has tended to loose its quasi-monopoly. Is it however a consequence of ‘dualization’? We would tend to think that there is much more to the present evolution than a simple opposition between ‘insiders’ and ‘outsiders’. Certainly labour market specialists identify such ‘outsiders’ and ‘insiders’. But this divide also has existed in other countries, not Bismarckian (as in the UK, Laparra *et al.*, 2004), and it is doubtful whether the very stylised opposition between ‘insiders’ and ‘outsiders’ provides much useful information. The recent ‘dualization’ analysis, in the case of Germany and France, probably fails to capture most of what is happening however. The social insurance principle was always ‘status-saving’ in both countries, the idea that both their systems had to be ‘encompassing’ and ‘universal’ was always to be taken with a pinch of salt, contrary to what some seem to assume (Palier and Thelen, 2010, p. 139). Rather than ‘dualization’, what we observe in France and Germany are the growing consequences of increasing and manifold inequalities that lead to a patchwork of situations, and, as far as social protection programmes are concerned, the fragmentation of types of rights and entitlements varying according to traditional sectors of social protection (education, housing, pensions, healthcare coverage, unemployment insurance and assistance). But what we see is more fragmentation of the societies into various sub-groups, and, in this, ‘activation strategies’ have tended to reinforce this fragmentation (women, the young, sectoral

differences for pensions and unemployment, working poor and marginal employment, migrants, etc.).

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Table 1 - Old and new activation across time in Germany and France

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+
1-macro developments	FR		full employment			1974-83 Stagflation [1975= 1 million registered unemployed]	1984-93 Competitive disinflation [1993= 3 million registered unemployed- State as employer of last resort 1986-88 short labour market boom		1994-2001 Post-Maastricht arrangement 1997-2001 labour market boom and the reduction of working time		From 2002 The shock of the Euro		2008 economic and financial crisis collides with sweeping reforms
	DE	post-war unemployment, refugees from Eastern territories	1957 'full employment' 1961 Berlin Wall; increasing labour shortage in the West			1975 oil shock: unemployment exceeds 1 million	1983: unemployment exceeds 2 million		1990: unification 1993: UE exceeds 3 million	accelerated restructuring in the West; 1997: UE exceeds 4 million	1998 - 2005 Red-Green coalitions	2005: UE briefly hits 5 million	UE largely stable despite crisis, short-time allowances up to 1.5 million in 2009
2. Unemployment insurance with associated active labour market programmes (ALMP)	FR	1958 standard unemployment insurance along "Bismarckian rules"	Old activation= registering and looking for jobs		End of full employment Late 70s and early 80s= first large scale employment programmes for certain groups		1984: Allocation de solidarité spécifique (ASS) Allocation d'insertion (AI) for the young and other groups		1988 Allocation formation-reclassement (AFR) Large scale Training and employment programmes	Various reforms implemented in the ANPE (Agence nationale pour l'emploi) (service delivery, monitoring of the unemployed, management of agencies..		Failure of the reform of ASS 2002	Gestation of fresh reforms

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+
							New forms of activation strategies emerge in the employment service and unemployment insurance) Benefits are adjusted	Various reforms of unemployment benefit= PARE (plan d'aide au retour à l'emploi)		Sweeping reforms on the labour market and employment service
	DE	labour market policy largely based on restored pre-war legislation from 1927			1969 <i>Arbeitsförderungsgesetz</i> (AFG - Employment Promotion Act) ALMP emphasis on retraining: manpower policies in support of structural change			increasing use of direct job creation (ABM)	massive almp (training and direct job creation)	1997: AFG replaced by Sozialgesetzbuch III	2002: JobAQTIV Act: introducing 'activating' language 2003 'Hartz' reforms of the Federal Employment Agency	gradual paradigm shift from 'old' to 'new' activation: downplaying macro responsibility of the state, emphasis on individual responsibility; state intervention into individual behaviour rather than labour market structure	
		12 months unemployment benefit (UB) for the insured, unlimited unemployment assistance (UA) for the non-insured or after exhaustion of UB, if able and willing to work			1976 to 2000: direct access to UA without previous UB eligibility gradually restricted and finally abolished							2005 'Hartz IV': <i>Arbeitslosenhilfe</i> abolished; majority of unemployed now without status-maintaining benefit	
3. minimum income benefits/ social assistance with	FR	1953 Social assistance is reformed No link with "activation strategies"			1975 = solidarity benefit with the disabled Allocation d'aide aux handicapés	1982 and 1986 decentralization of social assistance (aide sociale)	1988: RMI				2003 failed reform = Revenu minimum d'activité RMA comprehensive decentralization to the <i>départements</i>	2008/2009= RSA revenu de solidarité active	

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+	
associated active/activating programmes						s= AAH 1976 allocation de parent isolé (API) Preliminaries to full scale mechanisms; experimentation by associations								Reforms of subsidized contracts
	DE	municipal social assistance according to legal foundations laid in 1924, with punitive elements	1962 <i>Bundessozialhilfegesetz</i> (Social Assistance Act): federal legislative framework for municipal social assistance: SA becomes a social right; primacy of supporting oneself through work; acceptability of community work; refusal of acceptable work could lead to the withdrawal of the benefit SA recipience is marginal and very exceptional in working age; activation principles 'dormant'.				1981: number of SA recipients exceeds 1 million and continues to grow almost steadily until the late 1990s to almost 3 million. SA develops into a 'third tier' of protection against worklessness. Municipalities create temporary jobs subject to social insurance contributions in order to 'recycle' SA recipients into UB (and subsequently UA) recipience - this is later criticised as 'switchyards' of benefit eligibility				2005: 'Hartz IV' reform merges <i>Arbeitslosenhilfe</i> with <i>Sozialhilfe</i> ; minimum income assistance has far more recipients than UE insurance massive creation of '1-Euro-jobs' (community work, working for the benefit plus premium); low earners continue to receive part of the benefit			
Activation by reforming social contributions and	FR	No activation							1989 introduction of Contribution sociale généralisée CSG	From 1993, targeted social contributions reductions on low wages	From 1997, first coupled until 2003 with the reduction of working time, structural settlement of the reduction of social contributions for employers (on low and medium wages), in order to lower labour costs and foster employment creation.			

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+
taxes for the funding of social protection	DE		introduction of 'geringfügige Beschäftigung' (small jobs exempt from social insurance contributions and with flat-rate taxation): mobilisation of the female labour force without calling the male breadwinner model into question						Containment of social insurance contributions while maintaining the fiction of equal contributions: taking certain risks out of coverage, reducing benefits, introducing voluntary complementary schemes funded by employees alone, increases in tax-funded subsidies for social insurance schemes		Reform of 'geringfügige Beschäftigung' into 'mini-jobs' (easier administrative procedures, flat-rate taxes lowered and borne by employer) is followed by their statistical growth.		
												Gliding disregard for earned income makes Arbeitslosengeld II function like a "Kombilohn" (permanent low-wage income supplement, equivalent of earned income tax credits).	
Family benefits	FR	No activation. Family support per se. Mainstream tax system favours large families (family and not individualized base)				1976 allocation de parent isolé (API) : short term support till the youngest kid turns 3; family funds also manage RMI and AAH. Family funds crucially involved in poverty alleviating and policies against poverty				No activation. Family benefits are nevertheless recalibrated in order (in some cases) not to facilitate mothers' leaving the labour market. Child care support is recalibrated in order to facilitate employment creation and coupled with lower social contributions and tax reductions for parents.			
	DE	1958 (re-) introduction of marital status tax relief for single breadwinner and unequal earner couples				1975 general child allowance from the 1 st child, independent of income		1986: introduction of parental leave with guaranteed job return and child care allowances during the first two years for low and medium earners. In practice almost exclusively used by women.			parental leave incentivises access for fathers; its re-design as a wage replacement offers more incentives to higher than to lower earners		

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+
older age	FR	No activation= traditional social insurance pensions (pay as you go)				"mesures d'âge" = organizing the leaving of the labour market for older employees: Various forms of early exit			Gradual phasing out of early retirement is contradicted by ASS recipients inactivity and by long term unemployed being dispensed of looking for jobs (<i>dispenses de recherche d'emploi</i> - DRE) 2003 pension reform			2008+ Heralded fresh restriction to inactivity for the unemployed [suppression of DRE from 2012] new restriction for early retirement schemes and legal measures for expanding older age employment 2010 pension reform	
	DE	1957 pension reform: status-maintaining pensions above poverty level after life-long full-time working careers; strengthening of survivors' pensions					early exit policies: extended UB entitlements for older workers, exemption from job search requirements from 58 on and early pensions from 60 on as mechanisms for reducing excess labour supply			gradual phasing-out of most early pensions 2005 reduction of UB eligibility periods for older workers			
		Old activation				New activation from 1988, with various turns							
characterization of periods	FR	Traditional "activation" in a dominantly "social insurance" (Bismarckian) system of social protection				Gradual introduction of large scale employment programmes linked to the disappearing of full employment; introduction of a number of minimum income benefits and emerging of the insertion rationale: emerging new			1988 the logic of insertion turns into public policy ("Republican activation= social activation") 1993 - 2006 the logic of incentivizing and making work pay combined gradually (coupled with the transfer of social contributions to the budget and			Clashing with the crisis: The trial to homogenize activation as	

		1950's	1960+	1965+	1970+	1975+	1980+	1985+	1990+	1995+	2000+	2005+	2007+	
						activation			the lowering of labour costs) variegated activation rationales and transition				making work pay; the discarding of RMI as an unconditional right Sweeping reforms in the ANPE and UNEDIC	
	DE	post-war reconstruction	fully-fledged evolution of 'Bismarckian' type social protection			'active' Imp: Keynesian macro orientation			'almp overdose' in unification process	gradual paradigm shift	'activating' Imp: neo-liberal micro orientation, principles of 'work first', 'actively seeking' and 'must want to work'			
		'old activation': traditional principles of 'supporting oneself', availability for the labour market and for placement offers, criteria of acceptability according to vocational status; less emphasis on 'actively seeking work'							"new activation"					