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**National Action Plan of Germany against Poverty and  
Social Exclusion (NAPincl)  
2003 – 2005**

**First Report of the Non-governmental Experts**

**Bochum**

**15 April 2004**

# Contents

## Executive summary

### **I. Overall Development: Reforms for the Labour Market and the System of Social Security with Exclusion Effect?**

### **II. Statutory Measures and Implementation**

### **III. Effects on the 4 Nice Objectives**

#### *1. Access to gainful employment and to rights, goods and services*

- a. Participation in the labour market
- b. Minimum security
- c. Safeguarding of mini and midi jobs in the social security system
- d. Supply with benefits in the public health system
- e. Promotion of children and juveniles
- f. Reform of local government financing

#### *2. Prevention*

- a. Partial areas of Hartz: Former social assistance recipients in measures of active labour policy
- b. Access barriers in the public health system shorten prevention
- c. Linguistic integration of the children of migrants
- d. Discussion about a “minimum pension”?

#### *3. Most Vulnerable*

- a. Problem groups on the labour market
- b. Persons afflicted by income poverty
- c. Old people and people in need of nursing care
- d. Children / Juveniles / Training
- e. Migrants

#### *4. Mobilise all actors*

- a. Public and publicised opinion
- b. Protests by citizens and organised social interest groups
- c. Science
- d. Inclusion of the institutions of private welfare work in the discussion about cutbacks
- e. Involvement of leading associations

### **IV. Recent Debate**

## Executive summery

- The policy statement by Federal Chancellor Schröder in the German Bundestag on 14 March 2003 was supposed to introduce a turn of the tide in German social policies. Following the notion of workfare instead of welfare ("*promoting and demanding*") adopted from the sphere of British social policy, structural reforms were to take effect in particular with regard to labour policy, but also in the fields of pensions, health and social assistance.
- Altogether, an *enormous volume of legislation* has been passed since March 2003. But so far, the labour market has not yet been regulated finally along the lines of the Hartz Plan. Besides, new problems for the health insurance and pension systems can be seen to emerge, if the social security systems do not get additional income depending on the economic situation.
- It is becoming more and more apparent that the main emphasis of the German social protection system is placed on the *labour market*. In this context, management and control of the labour market with imposed sanctions are increasingly pursued. The chosen instruments as such are not principally new; since the Employment Promotion Act of 1969 these instruments, and in particular the priority of preventive over compensatory services, have been an integral part of German labour policy. What is new is the rigidity with which this, strictly speaking positive, "preventive" approach is to be implemented at the expense of the unemployed. At the same time, the problematic nature of a policy is becoming more and more apparent, if it places its priority only on the integration into working life. In fact, quite a few of these juveniles and young adults with social handicaps have no chance for training, let alone professional integration.
- Within the framework of the Hartz legislation, unemployment assistance and social assistance were to be readjusted, for one in such a way that the amount of unemployment assistance (in future *unemployment benefit II*) would be identical with social assistance in the final bracket. At the same time, social assistance was to be simplified by including the so-called one-time *benefits* in the standard rate for the most part. It will be still possible to apply for additional individual benefits going beyond the standard rate in exceptional cases, but altogether this new ordinance follows the practice in many other countries of the European Union.
- The Federal government had set off to initiate a structural reform in the *public health system* with clearly improved quality control, e. g. the establishment of a Foundation for Quality and Economic Efficiency in the Public Health Sector not controlled by the government, the introduction of the family doctor system, *Positivlisten* (lists of prescriptions with identical active agents, with consideration of therapeutical effect and economic efficiency, as orientation for physicians and patients) and others. In fact, it has become a cost reform with the result that more costs are shifted to the private households in the end and further elements of solidary equalisation in case of illness were cut back.
- Social exclusion strategies are unthinkable without local services and infrastructure facilities. But for years now, the municipalities have rightly been complaining about underfinancing and placed their hope in an encompassing *reform of local authority*

*financing*. The "compromise" found by the Bundestag and Bundesrat in the Mediation Committee does not ease the financial burden of the municipalities.

- Signs are increasing which indicate a change of system in the compulsory *pension scheme*: The statutory revisions affect in the first line the future, but not the current annuitants; the principle of safeguarding the standard of living is clearly called into question. Strengthening of private provision for old age planned as compensation is possible only, if the current household incomes allow it.
- *Children* are not a poverty risk, but certain children suffer especially from the risk of being reduced to poverty. The selective effect of the pre-school and school system affects children and juveniles of certain social classes in a particular way.
- For decades, Germany has been living a balancing act between *migration* and the self-image not to be an immigration society. The long haggling about an immigration law gives away the chances to understand migrants as a constitutive part of a multicultural society. Yet in every-day life this integration has been taking place for years. The sector of an economy sustained by migrants who, in addition to providing a livelihood for the foreigners, meanwhile also makes apprenticeship and training places for youths with a migration background available, has taken shape by no means in niches only.
- Since 2002, the year of the Bundestag election, no other subject has dominated *public and publicised opinion* as deeply as the question of social policy and its perspectives. A contradiction is frequently found here in the media, corroborating on the one hand the necessity of reforms in general and in concrete terms, but then pointing at the negative social effects for the individual and individual social groups. What was and still is missing, is a balanced discussion who will be the winners and losers in this process. On the whole, the context between economic structural change, German reunification and migration from Eastern Europe on the one hand and their consequential effects on the system of social security on the other hand remained almost taboo, as was the case in politics.
- In contrast, there has been a broad wave of *public protests* in which many individual persons participated, but also the trade unions, social associations, the non-statutory welfare organisations and other social NGO's. In North Rhine-Westphalia, even an initiative against cuts in the state budget for the area of open youth welfare services was successful.
- Notwithstanding the fact that the *non-statutory welfare organisations*, as component of the corporatively organised welfare state, are strongly dependent on the regional and local welfare state, they have raised their voice, partially in a very open way, against the local and regional policy of budget consolidation at the expense of the socially most vulnerable.

## **I. Overall Development: Reforms for the Labour Market and the System of Social Protection with Exclusion Effect?**

The policy statement by Federal Chancellor Schröder in the German Bundestag on 14 March 2003<sup>1</sup> was supposed to introduce a turn of the tide in German social policies. In order to be able to preserve the existing social protection system, reforms would have to be implemented wherever too much was expected of the welfare state and demands on self-help contributed by the recipients of financial benefits were too low. Following the notion of workfare instead of welfare ("promoting and demanding") adopted from the sphere of British social policy, structural reforms were to take effect in particular with regard to labour policy, but also in the fields of pensions, health and social assistance.

This policy occurred in a phase of recession of the world economy, but also of the EU states, with the German economy slightly shrinking again for the first time after a long period, thus even falling short of the sometimes low growth rates of other EU states. This was taken as occasion by the parliamentary opposition which also holds a majority in the second chamber - the Bundesrat - to call for a change of policy in the fields of labour market, taxation and social policy in general which should be characterised, as far as social safeguards are concerned, by stronger deregulation, stronger self-activation and more risks for the recipients of benefits.<sup>2</sup>

Finally, the Federal Republic of Germany again could not fulfil the Maastricht criterion with regard to net borrowing. The abstention of the EU Finance Ministers from initiating penal procedures made possible on the basis of EU agreements against Germany (and France) was criticised by the Commission and countered with an action before the European Court.<sup>3</sup> As cause for the high net borrowing, Germany asserted, among others, the heavy financial burdens said to be connected directly and indirectly with the achievement of German reunification. In the two years prior to signing the relevant agreement in 1997, the Federal Republic of Germany had already been above the 3 per cent criterion (1995 = 3.3, 1996 = 3.4) and in 1997 came very close to it with 2.7 per cent.<sup>4</sup> In connection with the economically determined slump in tax receipts, this led on the one hand to demands on a budget consolidation on all levels of the federal state down to the municipalities and simultaneously to increased net borrowing, including in particular the Länder.<sup>5</sup>

The local authorities as central protagonists in the field of social services were often pushed to the limits of their ability to pay and effected reductions where it was legally possible for them. Against this background, the demand for a reform of local government finances gained in importance. The leading associations representing local authorities, and finally a coalition of all parties represented in the federal parliamentary bodies, therefore had agreed on a common

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<sup>1</sup> Deutscher Bundestag. Stenografischer Bericht. 32. Sitzung, Berlin, Freitag, den 14. März 2003. Plenarprotokoll 15/32, Seite 2479 ff.

<sup>2</sup> Angela Merkel, ebenda.

<sup>3</sup> So war der Pakt einst gedacht. Interview mit dem luxemburgischen Ministerpräsidenten, in: Die Zeit, Ausgabe 04/2004, [http://zeus.zeit.de/text/2004/04/Interv\\_Juncker](http://zeus.zeit.de/text/2004/04/Interv_Juncker)

<sup>4</sup> Michael Bergius: Europäische Extrawürste. Brüssel und die Erwartungen an ausgeglichene Haushalte, in: Frankfurter Rundschau vom 26. September 2002, Seite 2

<sup>5</sup> Bundesministerium der Finanzen, Monatsbericht 02/2004, Seite 127; Frankfurter Rundschau vom 27. Februar 2004, Seite 2

plan, providing, among others, for inclusion of the self-employed in the trade tax. The Federal government adopted this proposal. Simultaneously, it decided to bring forward the second stage of the tax reform which had already been agreed and actually was not supposed to take effect until 2005 by one year.<sup>6</sup>

Numerous, albeit not all, laws initiated by the Federal government required the consent of the Bundesrat dominated by the Christian democrats (CDU/CSU). In the Mediation Committee and then in the Bundestag and Bundesrat, a common result was eventually achieved on 19 December 2003,<sup>7</sup> but a fair bit of it remained a compromise of sorts and now requires specification and phrasing in concrete terms in 2004.

## **II. Statutory Measures and Implementation**

1. Implementation of the proposals of the Hartz Commission passed in 2002 was the centre of legislation. Regulations about mini and midi jobs, a tightened obligation to report in case of impending or foreseeable unemployment, the so-called personnel service agencies etc. already having come into effect in 2003, the core field of restructuring the relationship of unemployment benefit, unemployment assistance and social assistance was now dealt with. For one, the maximum period of unemployment benefit I was limited to 12 months (18 months for older employees), and at the same time unemployment benefit II - the substitute for the old unemployment assistance - were clearly distinguished with regard to the amount of support from the social security service unemployment benefit I; gradually (by way of lowering a surcharge) the former will be reduced to the standard of social assistance.<sup>8</sup> At the same time, the regulations on reasonableness were tightened further and saddled with additional sanctions. For recipients of unemployment benefit II, each job - even below valid standard wages and in the form of midi or part-time jobs - is principally reasonable in future. Anybody rejecting job offers must reckon with cuts in benefits of up to 30 per cent; for unemployed persons up to 25 years of age, support can even be cut entirely.<sup>9</sup> Identical with regard to standard, but clearly assigned to the local authorities as competent bodies are all those who are not available to the labour market temporarily and therefore receive social assistance. It was contested during the mediation procedure that should be responsible for long-term unemployed persons drawing unemployment benefit II: the - renamed - Federal Agency for Employment or the local social welfare offices. Hessian Prime Minister Koch at first advocated a local solution, but then had the so-called Option Model put to a vote in the Mediation Committee. The local authorities have a right of first choice whether they wish to assume these tasks or not; if they do, the Federation has to pay them compensation. The Basic Law needs to be

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<sup>6</sup> Frankfurter Rundschau vom 16. Dezember 2003, Seite 2

<sup>7</sup> Frankfurter Rundschau vom 20. Dezember 2004, Seite 4; ebenda 2. Januar 2004, Seite 21 a complete overview.

<sup>8</sup> Steffen, Johannes, Die «Hartz-Gesetzgebung» Übersicht zu den wesentlichen Neuregelungen der so genannten Hartz-Gesetzgebung, Arbeitnehmerkammer Bremen, 01/2004 ([www.arbeitnehmerkammer.de/sozialpolitik/](http://www.arbeitnehmerkammer.de/sozialpolitik/));

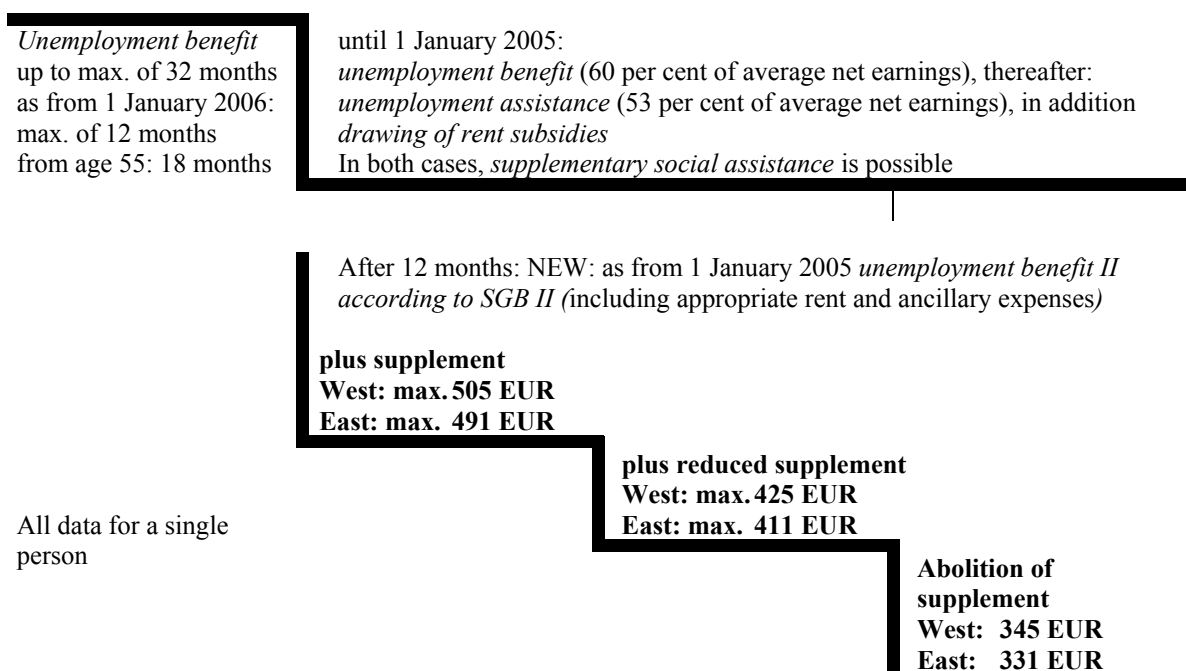
Frankfurter Rundschau vom 5. März 2004, Seite 2

<sup>9</sup> Härten für Erwerbslose und Erleichterungen für Handwerker. Koalition und Opposition verabschieden Arbeitsmarktgesetze (...), Frankfurter Rundschau vom 20. Dezember 2003, Seite 4; Ulrike Kress: Chronik der Arbeitsmarktpolitik, Mitteilungen aus der Arbeitsmarkt- und Berufsforschung Heft 2/2003, S. 205-250

*Future basic security according to social law SGB<sup>10</sup> II und SGB XII<sup>11</sup>*

<p style="text-align: center;"><b>Basic security in old age and in case of reduction in earning capacity according to SGB XII</b></p> <p>Entitled to claims are:</p> <ul style="list-style-type: none"> <li>○ Persons from the age of 65 years</li> <li>○ Persons <i>fully and permanently reduced in earning capacity</i></li> <li>○ Recipients of full pensions due to reduction in earning capacity limited in time after 9-year drawing period</li> <li>○ Insured persons already fully reduced in earning capacity prior to meeting the qualifying period for the pension, for the time period of an unsuccessful integration into the labour market</li> <li>○ Disabled persons of full age who cannot be gainfully employed on the general labour market</li> </ul>
<p style="text-align: center;"><b>Social assistance as subsistence grants according to SGB XII</b></p> <ul style="list-style-type: none"> <li>○ Persons <i>fully, but not permanently reduced in earning capacity</i></li> <li>○ Persons fully reduced in earning capacity drawing the pension for a limited time period</li> <li>○ Persons 65 years of age or older who will not be eligible to the application for basic security according to SGB XII (e.g. if a person has caused the need to draw social assistance through their own fault during the last 10 years prior)</li> </ul>
<p style="text-align: center;"><b>Unemployment benefit II as subsistence grants according to SGB II</b></p> <p>Persons <i>capable of gainful employment</i> from the age of 15 years to the age of 65 years. This includes:</p> <ul style="list-style-type: none"> <li>○ Gainfully employed persons</li> <li>○ Unemployed persons</li> <li>○ Persons in early retirement and recipients of early old pensions</li> <li>○ Persons partially reduced in earning capacity, but capable of gainful employment for 3 - 6 hours</li> <li>○ Persons partially reduced in earning capacity who draw a full pension due to reduction of earning capacity for labour market reasons</li> <li>○ Widows or widowers drawing a large widow's or widower's pension due to bringing up children or having attained to the age of 45 years</li> </ul>

*Development of the amounts of payment in case of unemployment (old - new)<sup>12</sup>*



*Social assistance according to SGB XII*  
(including appropriate rent and ancillary expenses)

<b>first year unemployed</b>	<b>after 1<sup>st</sup> year</b>	<b>after another six months</b>	<b>after another twelve months</b>
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<sup>10</sup> SGB - Sozialgesetzbuch (Code of Social Law)

<sup>11</sup> Depiction following Jonny Bruhn-Tripp und Gisela Tripp: Soziale Grundsicherung im Alter und bei Erwerbsminderung 2005, Materialien zum Sozialrecht, S. 15, 2004

<sup>12</sup> Own Depiction.

amended accordingly to give the municipalities the right to take over tasks of the Federation and receive direct financial equalisation from the Federation in return.<sup>13</sup>

2. In order to reach the goal to lower the average health insurance contribution and stabilise it permanently at 13 per cent, a compromise was made with regard to the compulsory health insurance system. After Federal Chancellor Schröder had announced the exclusion of dental prosthesis from the catalogue of benefits of the compulsory health insurance system in his Agenda 2010, the CDU/CSU called for stiffest resistance against this regulation. CDU/CSU in turn demanded the introduction of a practice fee falling due one time each quarter, when consulting an established general practitioner as well as a dentist.<sup>14</sup> The compromise between government and opposition states that the practice fee is collected with effect from 1 January 2004 and dental prosthesis is deleted from the catalogue of the compulsory health insurance system and converted into a compulsory-optional insurance with a statutory or private insurance scheme effective 1 January 2005. Supplementary payments to benefits paid by the health insurance schemes were also in part increased and in part newly introduced.<sup>15</sup> Sickness benefits were not deleted from the compulsory health insurance system, as originally planned as well, but as from 2006, the insured must bear the pertinent employer's contribution (0.5 per cent) themselves in addition. Death and maternity benefits were cut.
3. After the contributions to the compulsory pension scheme had been increased to 19.5 per cent and the income limits for the assessment of contributions to the compulsory pension and health insurance systems had been raised with effect from 1 January 2003 pursuant to the Law to Safeguard Social Security Contributions, reappearing bottlenecks in the financing of the compulsory pension scheme and nursing care insurance were now to be removed at the expense of the older generation. As from 1 April 2004, annuitants will have to pay the full contribution to the nursing care insurance (totalling 1.7 per cent, whereas so far they had to pay only half the rate, i.e. 0.85 per cent). Besides, the changes in the rates of contribution to the compulsory health insurance scheme will be passed on to the annuitants on a quarterly basis in future and not on an annual basis.<sup>16</sup> The adjustment of pensions due on 1 July 2004 will be deferred by one year.<sup>17</sup> Combined with the introduced practice fees, these changes in fact make themselves felt negatively before all for the recipients of lower pensions. On the other hand, one should recall the regulation put into effect on 1 January 2002, according to which the insurance institutions

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<sup>13</sup> Frankfurter Rundschau vom 17. Dezember 2003, Seite 4; ebenda vom 2. Januar 2004, Seite 21

<sup>14</sup> Deutscher Bundestag, Antrag der CDU/CSU-Fraktion „Für ein freiheitliches, humanes Gesundheitswesen statt Staatsmedizin und Bevormundung“ Gesundheitspolitik neu denken und gestalten, 2003, Berlin; Bundesministerium für Gesundheit und Soziale Sicherung, Eckpunkte für Konsensverhandlungen zur Gesundheitsreform, 22.7.04, Berlin, [www.bmgs.bund.de/deu/gra/themen/gesundheit/eck.cfm](http://www.bmgs.bund.de/deu/gra/themen/gesundheit/eck.cfm)

<sup>15</sup> Frankfurter Rundschau vom 23. Dezember 2003, Seite 2; Some examples for supplementary payments: for medicine generally 10 per cent, at least 5, maximum EUR 10; for a stay in a clinic EUR 10 (until now EUR 9), maximum for 28 (until now 14) days; no reimbursement of the costs for a taxi to the doctor.

<sup>16</sup> Bundesministerium für Gesundheit und Soziale Sicherung, Neuregelungen in der Gesetzlichen Rentenversicherung zum 1. April 2004, Berlin, 5.3.2003

<sup>17</sup> Frankfurter Rundschau vom 2. Januar 2004, Seite 21; Marler Zeitung vom 5. März 2004, Seite 1; Verband Deutscher Rentenversicherungsträger: Die neue Rentenreform, Änderungen im Jahr 2004, Reformpläne für das Jahr 2005, Neuregelungen bei der privaten Altersvorsorge, 2. Aufl., 1/2004

point out in writing to annuitants with a pension below EUR 844 that they are entitled to basic security in old age and in case of reduction in earning capacity (SGB XII), provided they do not have any other sources of income. The narrow family subsidiarity, as it exists in case of "normal" recipients of social assistance, has thus been overridden for the most part.<sup>18</sup>

At the same time, a law stipulates that with effect from 1 January 2004 company pensions are subject to contributions to the compulsory health insurance scheme of annuitants and the nursing care insurance to their full amount.<sup>19</sup>

In March 2004, the German Bundestag finally passed a Law for the Long-Term Safeguarding of the Rates of Contribution to the Compulsory Pension Scheme, providing at the same time for a demographic factor in the calculation of pensions. The demographic changes (sustainability factor) are supposed to be considered in the amount of pensions insofar, as the future calculation of pensions will take the ratio of active contributors in comparison to the recipients of pensions (labour market component) directly into account and a gradual lowering of the standard of benefits is to be cushioned by increased private provision for old age. At the same time, this law contains a declaration of intent that the pension standard (computed for the so-called model annuitant, i. e. an annuitant who has paid contributions for 45 years and whose income has exactly matched the average of all incomes at any one time) must not fall below 46 per cent of the average gross wage. This law has also cut certain credited periods within the framework of the compulsory pension scheme from which college and university graduates have before all profited so far.<sup>20</sup>

4. Although the federal level is not responsible for education policy, the Federal government has developed a plan for the strengthening of the offer of all-day-schools and funded it with a total amount of EUR 4 Bn. This was in response to the results of the PISA study and later the IGLU study<sup>21</sup> which were all but flattering for Germany. However, its attempt to exert influence with this money on the quality and distribution of these offers as well failed because of the united resistance of the Länder which accept the money, but want to decide about its use themselves within the frame-work of their sovereignty in cultural and educational matters.<sup>22</sup> The Federal government meanwhile plans a law for the improvement of all-day care for children below three years of age. It wants to subsidise this programme with EUR 1.5 Bn. which are supposed to be taken from the hoped-for savings of the local authorities through unemployment benefit II.<sup>23</sup>

Altogether, an enormous volume of legislation has been passed since March 2003. But so far, the labour market has not yet been regulated finally along the lines of the Hartz Plan. Besides, new problems for the health insurance and pension systems could be seen to emerge, if the

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<sup>18</sup> Cf our First Report 2003: [http://europa.eu.int/comm/employment\\_social/soc-prot/studies/studies\\_en.htm](http://europa.eu.int/comm/employment_social/soc-prot/studies/studies_en.htm)

<sup>19</sup> Frankfurter Rundschau vom 23. Dezember 2003, Seite 2

<sup>20</sup> Frankfurter Rundschau vom 11. März 2004, Seite 2; Bundesministerium für Gesundheit und Soziale Sicherung, Eckpunkte für die Weiterentwicklung der Rentenreform des Jahres 2001 und zur Stabilisierung des Beitragssatzes in der Gesetzlichen Rentenversicherung, Berlin, [www.bmgs.bund.de](http://www.bmgs.bund.de);

<sup>21</sup> Frankfurter Rundschau vom 29. Januar 2004, Seite 8

<sup>22</sup> siehe: Verwaltungsvereinbarung Investitionsprogramm „Zukunft Bildung und Betreuung“ 2003-2007, [www.bmbf.de/pub/20030512\\_verwaltungsvereinbarung\\_zukunft\\_bildung\\_und\\_betreuung.pdf](http://www.bmbf.de/pub/20030512_verwaltungsvereinbarung_zukunft_bildung_und_betreuung.pdf)

<sup>23</sup> Frankfurter Rundschau vom 13. März 2004, Seite 4

social security systems do not get additional income depending on the economic situation and if the success of the reforms of labour market policy fails to come. In addition, there are imposed conditions, e. g. by the Federal Constitutional Court with regard to the taxation of pensions.

### **III. Effects on the 4 Nice Objectives**

#### ***1. Access to gainful employment and to rights, goods and services***

##### **a. Participation in the labour market**

It is becoming more and more apparent that the main emphasis of the German social protection system is placed on the labour market. In this context, management and control of the labour market with imposed sanctions are increasingly pursued. The chosen instruments as such are not principally new; since the Employment Promotion Act of 1969 these instruments, and in particular the priority of preventive over compensatory services, have been an integral part of German labour policy. So far it remains doubtful in how far the Hartz Laws will actually lead to an infrastructure fostering integration in active labour policy. In view of the tightened re-financing conditions for the institutions responsible for the various programmes – especially the dependency of integration-quotas –, scepticism is rather called for (see also our First Report 2003):

- For example, young unemployed up to 25 years of age will have a statutory right to direct placement in employment, training or opportunities to work, when Hartz IV is implemented as from 2005. Promoting is indeed the counterpart of demanding here. But the tightened rules of reasonableness and the fact that a refusal to accept offered assistance lead to a complete suspension of the claim for unemployment benefits II for three months need to be taken into consideration as well.
- Inclusion of recipients of social assistance able to work in most of the measures of active labour policy (SGB III).
- Continuance of measures, inter alia with ESF funds, EQUAL etc. Question of extension/complementary funds.

What is new is the rigidity with which this, strictly speaking positive, "preventive" approach is to be implemented at the expense of the unemployed:

- By way of a tightened obligation to register in case of impending unemployment, efforts at job placement are to be initiated well in time on the one hand, while on the other hand the failure to register is taken as justification for the imposition of disqualification periods for the receipt of benefits.
- All in all, the number of disqualification periods within the framework of unemployment insurance has increased by one third during recent months. Cuts in benefits are meant to stimulate willingness to participate actively in the finding of employment, but to an ever increasing degree organisational problems of the Employment Administration or private

placement firms engaged by it or Personnel Service Agencies are also the cause for the continuously low success in fighting mass unemployment.<sup>24</sup>

- The failure of one of the large private job placement firms/Personnel Service Agencies (Maatwerk) is a set-back in labour market policy: Instead of taking up and further extending the existing cooperations between local employment office and social welfare office within the framework of MoZarT in a large number of municipalities,<sup>25</sup> including cities - presented as best practice example by the NAPincl. 2001-2003 itself - and evaluating, and where necessary accrediting, existing public and private agencies responsible for industry-wide vocational training and further training programmes, the Federal Agency for Employment which was in the process of restructuring and its subsidiaries terminated the contracts with these agencies almost completely and invited public tenders in "large lots" for these tasks. As a result, large and allegedly "more cost-effective" suppliers were selected which had insufficient experience in this field to date or completely insufficient capital cover. "Savings" then had to be effected in related social educational and other social services which had been standard measures in the context of private non-profit institutions and previous measures supported by the local employment office. While these new institutions edged out the old institutions and the latter were wound up,<sup>26</sup> it became apparent that the new institutions often lacked know-how. Since little can be procured after all where jobs are lacking, the "flow" in these new institutions is too low, hence the profit margins are insufficient. This, too, contributed to the disaster at Maatwerk.<sup>27</sup> Publicised opinion warns that other failures could follow. The attempts now commencing on the local or regional level to reactivate previous institutions, e. g. with the churches as responsible bodies, fail for the simple reason that these institutions no longer exist.
- Nonetheless, unemployment figures are "decreasing": Since 1 January 2004, the number of unemployed is calculated according to a new method, which now follows the EU-standard (EUROSTAT). Some persons are thus deleted from the statistic so that the number and rate of unemployed persons go down. A clear indication that the decrease in unemployment figures has no counterpart in an increase in employment is the fact that the number of employment relations does not increase in parallel to the decrease of unemployment figures at all. However, there are only minor indications so far that the demand for labour will rise during the next months.<sup>28</sup>
- Another "success" could be registered insofar as the Federal Agency for Employment has spent only EUR 6.8 Bn. instead of the EUR 7.5 Bn. estimated in the federal budget 2003. In the final analysis, this is the consequence of initial cuts in benefits in lieu of wages and job placement costs becoming effective now.<sup>29</sup> With these savings, net borrowing by the Federation could be lowered retroactively so that "successes" of labour policy also have a

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<sup>24</sup> Frankfurter Rundschau vom 16. Januar 2004, Seite 12

<sup>25</sup> Frankfurter Rundschau vom 24. Januar 2004, Seite 28

<sup>26</sup> Frankfurter Rundschau vom 14.01.2004, Seite 1 und vom 17.01.2004, Seite 29

<sup>27</sup> Frankfurter Rundschau vom 21. Februar 2004, Seite 9; ebenda: 18. Februar 2004, Seite 11

<sup>28</sup> Frankfurter Rundschau vom 19. Februar 2004, Seite 11, Institut für Arbeitsmarkt und Berufsforschung: Noch kein Durchbruch am Arbeitsmarkt 2004, in: IABMaterialien Nr. 2/2003, Nürnberg

<sup>29</sup> lt. Presse-Information der Bundesagentur für Arbeit vom 5. Januar 2004

positive effect with regard to fulfillment of the Maastricht criteria. For the budget year 2004, the Federal Agency for Employment has estimated a subsidy requirement in the amount of EUR 5.21 Bn. This means that the Federal government in future will still fall by far short of its original goal to cut the federal subsidy down to zero as a result of the reforms of labour policy.<sup>30</sup>

- One of the central problems, namely the actual interlinking of the local employment and social welfare offices in looking after the long-term unemployed still remains unclarified. While the so-called Option Model has been introduced in Parliament, Federation, Länder and municipalities have been quarrelling both about the reimbursement of costs which the municipalities estimate to be higher than the Federation<sup>31</sup> and about the question whether a disordered system changeable at any time and with large regional variations is being established here in the final analysis. For the municipalities are to be granted the right to change their option every five years so that uncertainty could be created where a requirement for structuring and calculability on the side of the recipients of this care service is necessary more than ever.<sup>32</sup>
- After the tightened obligations to register for persons threatened with unemployment had come into effect on 1 July 2003 and stronger personal initiative in the search for a job is demanded, the establishment and extension of a virtual labour market as Internet portal was supposed to assume an important service function. In February 2004, the manager of the project was dismissed, because its operatability did not come up to expectations and calculated costs are probably to be exceeded by almost EUR 100 Mill. The online job exchange is now to be available nation-wide and in working order by mid-2004. Its integration with the existing IT systems for advice and job placement into one single system will be dragged out indefinitely.<sup>33</sup>

## **b. Minimum protection**

In the 1980's and 1990's, the standard of the German minimum protection system was more and more undermined. The benefits reflected in the so-called standard rates showed a tendency to decline. Calculations by the *Paritätische Wohlfahrtsverband* (one of the non-statutory welfare organisations) had revealed that the benefits under social assistance in 2003 had lagged by 5.6 per cent behind the adjustment procedure (statistics model) last agreed in 1988.<sup>34</sup> On the other hand, the Federal government argued that the standard rates have been determined in accordance with the development of a) consumer behaviour in low income brackets, b) the cost of living and c) net incomes and, consequently, developed in parallel with them at a lower rate than the rate of inflation.

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<sup>30</sup> It. Presse-Information Nr. 78/03 der Bundesanstalt für Arbeit vom 14.11.2003

<sup>31</sup> Kommunen stöhnen über Mehrbelastung. Zuständigkeit für Unterkunftskosten bei Hartz IV könnte sich für viele Gemeinden als Millionengrab herausstellen, Frankfurter Rundschau vom 30. Januar 2004; ebd.: 8. März 2004, Seite 1

<sup>32</sup> Frankfurter Rundschau vom 2. Januar 2004, Seite 21

<sup>33</sup> Presseinformation der Bundesagentur für Arbeit vom 25.2.04, 13.3.04 und 17.3.04

<sup>34</sup> Ulrich Schneider: Expertise zur Frage der bedarfsgerechten Fortschreibung des Regelsatzes für Haushaltsvorstände gem. § 22 BSHG – überarbeitete und aktualisierte Fortschreibung der gleichnamigen Expertise von August 2001, Frankfurt am Main 2003. <http://www.infothek.paritaet.org>

Within the framework of the Hartz legislation, unemployment assistance and social assistance were to be readjusted, for one in such a way that the amount of unemployment assistance (in future unemployment benefit II) would be identical with social assistance in the final bracket. At the same time, social assistance was to be simplified by including the so-called one-time benefits in the standard rate for the most part. The Standard Rates Ordinance concerning the amounts of benefits under the new Social Assistance Act which is to take effect on 1 January 2005 has been introduced by the government in draft form in January 2004 and is to be put to the vote in the Bundesrat in April. Individual additional benefits going beyond the standard rate can still be applied for in exceptional cases (e.g. to be able to keep a diet due to illness), but altogether this new ordinance follows the practice in many other countries of the European Union. Wherever minimum protection takes on the form of a basic protection system for largely identical cases, the generalisation of one-time benefits is acceptable.

### **c. Safeguarding of mini and midi jobs in the social security system**

The renewed inclusion of the so-called mini jobs (up to EUR 400 per month) in the system of social security is principally sensible, the more so as the financial burdens (25 per cent and 12 per cent for domestic aids, respectively) are to be borne exclusively by the employers or private house-holds. Since the holders of mini jobs are, as a rule, covered by the health insurance of their spouses and can assert derived claims under the compulsory pension scheme, without any income of their own having borne a solidary share of the contribution income so far, it makes sense to include these incomes now. These contributions - to be paid by the employers as flat rate - do not lead to any pension claims of their own (except for the rehabilitative benefits of the compulsory pension scheme) nor to an increase in benefits, but can be upgraded by the employees up to such an extent that they can, for example, establish own legal claims within the framework of the compulsory pension scheme. Another advantage is to be seen in the fact that in case of a loss of income due to illness the payment of a benefit to the employee by the social security scheme falls due. The state fixes a flat-rate tax (2 per cent) for these employment relations which is to be paid by the employer as well. The threat of the federal legislature to take more concerted action against illicit work has led to a wave of (subsequent) registrations of such mini jobs.

Scientists draw attention to the discrepancy between the amount of contributions and the claim for benefits and to the fact that the waiver of a burden analogous to that of better paid employment relations constitutes subsidisation of the mini and midi jobs by the social security schemes in the final analysis.<sup>35</sup> This is correct insofar as it means the burdens to be assumed by the employers, but not the - later - recipients of benefits. It also needs to be asserted that these low-paid jobs have not been considered at all so far under social security and fiscal laws so that at least a step in the right direction has been taken here.

With regard to midi jobs (from EUR 400.01 up to 800.00), social security charges rise in parallel to the income. Within the sliding wage bracket, the employer has to pay the full social security contribution rates, whereas the employee's share on all branches of social security

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<sup>35</sup> Angelika Koch und Gerhard Bäcker: Mit Mini- und Midi-Jobs aus der Arbeitslosigkeit? Die Neuregelungen zur Beschäftigungsförderung im unteren Einkommensbereich, in: Sozialer Fortschritt, Heft 4/2003

increases on a gliding scale, starting at 4 per cent and up to the full share (at the moment 21 per cent). The tax rate is not calculated as lump sum here, but individually.<sup>36</sup>

Seen all in all, the trend towards the reduction of the normal employment relation is at least counteracted with these regulations insofar as the segmented employment relations do not evade the fiscal and quasi-fiscal authorities completely. Because the group of affected persons demands benefits under public law within the framework of insurance as family member or in the form of derived claims in case of illness, unemployment or old age, including nursing care or as social assistance recipients, which are not matched so far by any counter-performances from their own (partial) gainful employment. For the employers, the "profit" derived from the destruction of normal employment relations will at least partially turn out to be lower.

#### **d. Supply with benefits in the public health system**

The greatest concern among the population has been brought about by the introduction of a new supplementary payment by those who are dependent on services of the public health system, i. e. the practice fee. Each quarter, the patient has to pay a one-time practice fee of EUR 10 each for the general medical system and the dental system, if he visits these doctor's practices one time or several times. To be added to this are increases of own payments for in-patients, reductions of benefits granted for glasses, cutting of death benefit and of financial contributions for necessary taxi rides. There still is a so-called "excessive payment clause" in force, according to which the sum of supplementary payments is not to exceed 2 per cent - 1 per cent for the chronically ill - of one's income; however, with these supplementary payments the sum that is accumulating and at first must be disbursed in advance increases, before a reimbursement of payments can be effected at all.<sup>37</sup>

This affects in particular groups of persons who are, to all intents and purposes, not legally, but specifically to a particular social stratum already excluded from numerous benefits of the public health system or have more difficult access to them. For example, this increase of supplementary payments has not been included in the standard rate of social assistance, which leads de facto to a lowering of benefits for this group of persons, including home inhabitants. The Administrative Court Neustadt has meanwhile adjudged in expedited proceeding (Ref. 4 L 441/04.NW) that social welfare offices do not have to assume the practice fee.<sup>38</sup> As there are no advance payments within the framework of social assistance, recipients must typically draw on their exempt assets to receive these medical and other services in the first place. For home inhabitants, a regulation has meanwhile been adopted that the institution responsible for social assistance remits a one-time fee of EUR 35 (chronically ill persons) or EUR 70 to the health insurance scheme and withholds this money, distributed over some months, from the "pocket money" of the home inhabitants. After long negotiations, at least the group of homeless persons living in the streets (§ 72 BSHG) has been exempted from the practice fee.<sup>39</sup>

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<sup>36</sup> Bundesregierung, gesetzliche Neuregelungen zum 1.04.04, REGIERUNGonline

<sup>37</sup> Frankfurter Rundschau vom 22. Dezember 2003, Seite 30

<sup>38</sup> Frankfurter Rundschau vom 21. Februar 2004, Seite 5

<sup>39</sup> Frankfurter Rundschau vom 16. Januar 2004, Seite 1 und vom 10. März 2004, Seite 6

This legislative procedure and its implementation reveal considerable defects at the expense of benefit recipients which could have been avoided, if decisions had been made less budget-oriented (what does result in which income/reduced costs for the compulsory health insurance system and lowers contribution rates by how many thousandth parts?), but supplier-oriented: Where are incentives so that the suppliers in the public health system can get constant quality with a more cost-effective use of funds? Here again, an influential lobby - in particular the pharmaceutical industry - has successfully warded off interferences with its structures of disposition. The decision by the legislature to withdraw further medicines from the catalogue of services of the compulsory health insurance system was countered by industry with a large number of new combination medicines which could be dispensed and were only available on prescription again.<sup>40</sup>

The Federal government had set off to initiate a structural reform in the public health system with clearly improved quality control, e. g. the establishment of a Foundation for Quality and Economic Efficiency in the Public Health Sector not controlled by the government, the introduction of the family doctor system, Positivlisten (lists of prescriptions with identical active agents, with consideration of therapeutical effect and economic efficiency, as orientation for physicians and patients) and others. As a result of the negotiations with the parliamentary opposition parties it has in fact become a cost reform with the result that more costs are shifted to the private households in the end and further elements of solidary equalisation in case of illness were cut back.

#### **e. Promotion of children and juveniles**

The evidence of the PISA study which was partially confirmed and partially modified by the IGLU study that achievements of German pupils in reading and mathematics are worse than those of children, for instance, in Scandinavia has so far been used by Länder - politics to change the course in education policy only marginally. Whereas the Federation has made, and plans to continue to make, considerable funds available to increase all-day care offers for pupils as well as for small children and in the pre-school stage, no strategies by the Bundesländer are emerging so far how the strongly selective and socially selecting calibre of the education system is to be watered down.

As far as the children of migrants are concerned, practically all Länder have increased their efforts to improve linguistic competence prior to enrolment in school.<sup>41</sup> However, one must not ignore in this context that this linguistic integration is all in all in conflict with a confusing and inconsistent immigration policy: How and with which time perspective are migrants to be integrated into the social system? How much independence and delimitation does this society tolerate? To which extent are special institutions tailored to migrants tolerated and partially

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<sup>40</sup> Frankfurter Rundschau vom 24. Dezember 2003, Seite 4, Kurt G Blüchel: Arzneimittel-Tollhaus Deutschland, Das Diktat des Überflusses. Eine Bestandsaufnahme der gigantischen Verschwendungen im deutschen Medizinbetrieb, in Frankfurter Rundschau vom 16. August 2003, Seite 7; Anja Einfeldt: Operation Positivliste, Wie die Pharnalobby eine Reformidee stoppte, in: Frankfurter Rundschau vom 20. Februar 2004, Seite 28 f.

<sup>41</sup> e.g. for Lower Saxonia: Niedersächsischer Integrationsplan. Konzept zur Verbesserung der Integration von Migrantinnen und Migranten in Niedersachsen, [www.mi.niedersachsen.de/functions/downloadObject/O\\_c1136345\\_s20,00.pdf](http://www.mi.niedersachsen.de/functions/downloadObject/O_c1136345_s20,00.pdf). Beginning in autumn in this year there will be a pilot project of the Bund-Länder-Commission for educational planning and research with the title: „Förderung von Kindern und Jugendlichen mit Migrationshintergrund“; <http://www.blk-bonn.de/modellveruche/migranten.htm>.

promoted? It is true that there can be no integration into the general education school without linguistic support, however, this is merely a necessary, but not a sufficient precondition for integration. The political forces in the Bundestag and Bundesrat are searching for a compromise for a new immigration law.

#### **f. Reform of local authorities financing**

Social exclusion strategies are unthinkable without local services and infrastructure facilities. But for years now, the municipalities have rightly been complaining about underfinancing and placed their hope in an encompassing reform of local authorities financing.<sup>42</sup> The "compromise" found by the Bundestag and Bundesrat in the Mediation Committee is nothing short of for self-employed persons : Via its coalitions in the Länder, the Free Democratic Party pushed through that this social group will not be subject to the trade tax.<sup>43</sup>

The compensation for this and other curtailments by way of lowering the trade tax assessment to be paid by the municipalities to the Federation and the Länder in the amount of EUR 2.5 Bn. p.a. does not constitute a genuine relief, and the less so as in the field of nursing care alone the expenditures of the local authorities for nursing care assistance within the framework of social assistance to meet special contingencies in life have been increasing again continuously since 1999 due to underfinancing of the nursing care insurance and a standard of benefits lagging behind actual expenditures.<sup>44</sup>

The estimated relief of the municipalities by EUR 2.5 Bn. Due to unemployment benefit II are so far contested between the Federal government and the local authorities. The latter - and especially those that are particularly badly affected by unemployment - rather fear additional expenses, whereas the relief in the field of rent subsidies may well be kept by the Finance Ministers of the Länder.<sup>45</sup> Besides, EUR 1.5 Bn. out of the 2.5 Bn., which should be saved as a result of Hartz IV following the argumentation of the Federal government, are to be invested by the municipalities in an extension of care for children 0-3 years old.

Moreover, the municipalities incur further expenses within the framework of assistance for children and juveniles. More than 1 million of them receive subsistence grants. In addition to the standard rates and one-time benefits, other benefits specifically relating to children and juveniles are to be paid, e. g. costs for trips by school classes, special events etc. Compulsory benefits are increasing, and as a result voluntary benefits have been reduced for years already. For example, in 2003 numerous municipalities drastically reduced the offer of public libraries, sports facilities, leisure activities during the holidays etc. This negatively affects children and juveniles with a low budget.<sup>46</sup>

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<sup>42</sup> Gemeindefinanzbericht 2003, in: Der Städtetag, Heft 9/2003; Frankfurter Rundschau vom 6. Januar 2004, Seite 4; Der Städtetag NRW in einer Stellungnahme vom 26. März 2004: <http://www.staedtetag-nrw.de/>; Monika Kuban: Verursacher der desolaten Bilanz sind Bund und Länder. Warum die Kassen von Städten und Gemeinden chronisch leer sind, Dokumentation, in: Frankfurter Rundschau vom 13. März 2003, Seite 7

<sup>43</sup> Frankfurter Rundschau vom 16. Dezember 2003, Seite 2

<sup>44</sup> Frankfurter Rundschau vom 4. Februar 2004, Seite 1

<sup>45</sup> Kristian Frigelj: Kämmerer rechnen mit dem Schlimmsten. Die Mehrbelastung der Kommunen durch Hartz IV am Beispiel Gelsenkirchen/Stadt lehnt Arbeitsvermittlung ab, in: Frankfurter Rundschau vom 27. Februar 2004, Seite 4

<sup>46</sup> Gemeindefinanzbericht 2003, in: Der Städtetag, Heft 9/2003; Deutscher Städtetag, Aktuelle Finanzlage der Städte - Rückblick auf 2003 und Prognose für 2004, vom 3. Februar 2004

That this local policy of austerity does not even shrink back from the most bizarre steps is illustrated by the practice of some municipalities in Central Essen which have the funeral of destitute deceased persons without dependants whose costs are to be assumed by the town where death has occurred carried out in "more favourably priced" Turing. For each corpse to be buried the town thus saves ca. EUR 400!<sup>47</sup>

## **2. Prevention**

### **a. Partial areas of Hartz: Former social assistance recipients in measures of active labour policy**

An important element of the Hartz Plan was the reintegration of recipients of social assistance capable of gainful employment into the segment of active, employment-promoting measures of the Code of Social Law III. If this is resolutely implemented and the long-term unemployed are actually looked after in a professional way with a view to the labour market as well as to possible personal deficits and needs of assistance, the time period during which social protection benefits are drawn could be shortened or even be made redundant. The debate in Parliament about the cooperation between social welfare office and Agency for Employment needs to be awaited; since these measures are not to become effective prior to 1 January 2005, only expectations can be formulated, but no results be recorded so far.

### **b. Access barriers in the public health system could shorten prevention.**

The establishment of preventive elements in the public health system has not taken on the same extent as, for example, in the field of labour policy; nonetheless, successes have in fact been achieved, in particular in the field of precautionary medical examinations and checks to allow early diagnosis of illnesses, cures and other rehabilitative measures. All in all, massive medical progress has also led to the result that not only the average lifetime has increased, but also the age without disability. Insofar, medical progress and the system of preventive health care both preclude disability and early death. Since health constitutes an encompassing system with many factors, individual measures cannot be scrutinised in isolation, whether health is promoted or hindered by them alone. The fundamental factor is that the provision of services for the broad mass of the population has decisively contributed to this development; ca. 90 per cent of the population are covered by compulsory health insurance, slightly less than the remaining 10 per cent by private health insurance. Those without insurance can resort to assistance during sickness under the auspices of social assistance. Since 2004 the social assistance receivers will be covered by the health care system (SGB V § 256). So they will have equal rights like those who are members of the social insurance. Consequently, reductions in benefits, cutbacks of preventive and rehabilitative measures and the increase of complementary investments in the private households have a tendency rather to reduce this degree of coverage with health services. The concern expressed in public that a "two-tier medicine" could emerge overlooks the fact that health services, as far as the perception of symptoms, diagnostic thoroughness, recommended therapy and the actual course of the therapy are concerned, are already highly dependent on social strata. This will be reinforced

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<sup>47</sup> Frankfurter Rundschau vom 3. Januar 2004, Seite 25; siehe auch: Armenbegräbnisse sollen möglichst preiswert bleiben. Kirchen und Bestatter kritisieren „Entsorgungsmentalität“, epd-Wochenspiegel Nr. 33/2002 vom 15. August 2002

by the way being pursued now, i. e. larger supplementary payments, private coverage and more complex supplementary administrative services, with regard to offerers and recipients of these services alike.

### **c. Linguistic integration of the children of migrants**

The PISA study had again shown that before all the poor knowledge of German is responsible for the fact that the achievements of the children of migrants at school are below average. Moreover, this study has revealed that children in school classes with a particularly high ratio of foreigners are all in all doing worse in comparisons of achievement than classes with a low ratio of foreigners.<sup>48</sup> Therefore, politics in practically all Länder want to counteract the selective effect of the school system preventively by promoting the linguistic ability of children from migrant families more strongly, but also demanding more. Long-term studies show that even children of the third generation of migrant families in Germany still have a worse starting position at school and in vocational training. Linguistic promotion for example in the pre-school stage can make up for these initial disadvantages. However, without supplementary concepts, integrating the whole home and thus the assignment of roles and status imparted there, only partial successes can be obtained here. The model of a "parents' school" of the children of migrants in Bavaria can be evaluated as a secondary model.<sup>49</sup> All in all, the preventive character of these measures depends on whether the individual measures can be assigned to a complex integration concept or not.

### **d. Discussion about a "minimum pension"?**

The attempt to establish a minimum rate which the "basic pension" - seen in relation to one's own gross income - should not fall short of even under changed demographic conditions, is rather a declaration of intent and not an active political measure. As long as the problem of pension financing is by and large reduced to a balance between contributors and recipients of benefits, the distribution process in society at large between three generations: those who do not yet have, currently have or no longer have gainful employment, will not become the focus of attention. For with the decline in the birth rate, private expenditures and those of society at large for the coming generation decrease, whereas expenditures for the preceding generation increase. But since expenditures for the preceding generation are financed out of contributions to a large degree, whereas private costs for the coming generation are financed by the households themselves and public costs out of tax revenue, a more thorough discussion and search for a solution is required here than is conducted at the moment only inside the pension system financed out of contributions. Insofar, the establishment of a "minimum rate" which pensions should not fall short of are merely a declaration, as is any other statement that politics aim at preventing poverty in old age or that the drawing of future pensions should always also reflect justice in respect of contributions.

## **3. Most Vulnerable**

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<sup>48</sup> OECD PISA, Programme for International Student Assessment, Schülerleistungen im internationalen Vergleich, im Auftrag der Kultusminister der Länder in der Bundesrepublik Deutschland und in Zusammenarbeit mit dem Bundesministerium für Bildung und Forschung; [www.mpib-berlin.mpg.de/pisa](http://www.mpib-berlin.mpg.de/pisa)

<sup>49</sup> siehe NAPincl. 2001-2003 für Deutschland, Projekt 10: „Schule mal anders – Mütter lernen Deutsch an der Schule ihrer Kinder“, Anhang, Seite XXXIX

### **a. Problem groups on the labour market**

In favour of the intentions, legislative measures and previous attempts to implement the Hartz Plan it needs to be said that certainly more than barely one and a half years between drafting the concept and the implementation of these intentions must be calculated, the more so if one takes into account the tradition of the Federal Employment Agency and the size of the state Federal Republic of Germany, including the large problems in East Germany. Insofar it was and still is all the less comprehensible that politics acted as if the whole working model of ideas developed by a competent small group of experts, dealing with an automobile enterprise as it were, could reform previous traditions and philosophies about social security and simply dissipate faults as consequence of German reunification and international dependencies within two years.

Before all the attempt to break up the corporative structures in the field of qualifying problem groups on the labour market through new market-oriented social enterprises turned out to be a disaster not only for the Federal Agency for Employment and hence politics, but before all for those affected. Under the threat or even the imposition of sanctions, persons searching for employment were forced into structures of job placement which did not have sufficient experience and urgently needed guidance themselves.

As a result, it is the same group of persons as before who has to bear the full consequences of the structural crisis on the labour market: unemployed persons with placement impediments, for example illnesses or deficits in education and vocational training, people with disabilities and migrants. Women will also be affected by the consequences of this policy. Before all, the uncertainty who will be responsible for the long-term unemployed in future and how their problems which are, as a rule, multi-dimensional, should and can be dealt with professionally, constitutes a reform backlog of the first order. Problem areas are left unattended here whose social and personal effects in the medium and long term are either not taken notice of or not handled appropriately by society.

Especially the cutback of the programme of the former Federal Employment Agency to overcome disadvantages has led to the result that young people with social handicaps, for example juveniles or young adults whose emotional and moral maturation process is strongly retarded and who have clear intellectual deficits have, to all intents and purposes, been excluded from promotion chances. Moreover, the local and supra-local agencies in charge of social assistance, using the instrument of budgeting, are becoming more and more restrictive with regard to the assumption of costs, e.g. in hospital facilities. This restrictive allocation practice is not the subject of open negotiations between responsible agencies and suppliers of services, however, the suppliers as a whole suffer a decrease in the commitments to institutions and a reduction in costs assumed. At the same time, the problematic nature of a policy is becoming more and more apparent, if it places its priority only on the integration into working life. In fact, quite a few of these juveniles and young adults with social handicaps have no chance for training, let alone professional integration. The former practice of protected workshops for this group of persons has been severely curbed as a result of lower allocations of funds; it urgently needs to be reactivated especially for this group of persons.<sup>50</sup>

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<sup>50</sup> Cf oral report of a large institution for help for children and young people on North Rhine-Westfalia.

Recently, the public was startled by the example of two school classes for young migrants of German descent in Lower Saxony who tried to "surmount" the lack of perspectives they are experiencing at a vocational school where they are put on hold by using violence against a fellow pupil.<sup>51</sup> Violence against other persons, before all foreigners and socially even weaker persons, is no longer a peripheral exception in the Federal Republic of Germany. In a society with a fixation about gainful employment, unemployment is tantamount to exclusion from every-thing that constitutes social status and meaning in life.<sup>52</sup> This exclusion is experienced as something violent and then searches for a resort by means of using violence more and more frequently. Sometimes, it is the most vulnerable who, as victims, become offenders; at the same time, these persons often are victims again of offenders coming from special problem-afflicted social backgrounds as well.

#### **b. Persons afflicted by income poverty**

Poverty quotas in the Federal Republic of Germany have been relatively constant for a long time now and change only a little. But this also means that the number of persons afflicted by income poverty does not decrease so that the objective of the NAPincl. is not reached - not only in Germany. The new increase of the number of social assistance recipients and the effects of certain parts of the reforms especially on the recipients of low pensions, transfer and other kinds of income, including social assistance, place a higher burden, relatively speaking, on the bottom of the scale of incomes than on the middle and top brackets of the scale. Before all, the fact that social assistance as minimum security has failed to take increase into account in the public health sector and in general public and private services - public transportation, railways, cultural and sports facilities etc. - actually constitutes an aggravation of the situation of the poor population.

#### **c. Old people and people in need of nursing care**

Whereas it was the pronounced goal of all previous Federal governments since the discussions about the great pension reform in the 1950's to strengthen the pillar of public pensions by means of company pensions and private provision, with other words establish three pillars of old age security, the Hartz Laws initially led to the absurd result that privately saved means for old age provision (e.g. life insurances)<sup>53</sup> exceeding the amount of exempt assets had at first to be used up, before subsidiary benefits like unemployment assistance could be drawn. The legislature has meanwhile corrected this. In addition to company pensions, the so-called "Riester pensions" (tax-subsidised private additional old age provision) or residential property for own occupation, assets intended exclusively for old age provision are now exempt from having to be used up.<sup>54</sup> However, it still needs to be clarified whether the allowances fixed in this context (EUR 200 for each completed year of life of an unemployed person and his/her partner, at a maximum EUR 13,000 per partner) will actually defuse the conflict between private old age provision and the drawing of benefits in lieu of wages for a short or perhaps also longer time in case of unemployment.

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<sup>51</sup> Frankfurter Rundschau vom 5. Februar 2004, Seite 3

<sup>52</sup> Frankfurter Rundschau vom 6. Februar 2004, Seite 4

<sup>53</sup> Frankfurter Rundschau vom 2. Januar 2004, Seite 4

<sup>54</sup> Bundesregierung, Bundestag verabschiedet Reformgesetze, e.balance Nr. 14, 10/2003

At first creating compensation here through allowances, the government coalition and the opposition have again skimmed off purchasing power before all from annuitants with its decision to levy the full rate of contributions for health and nursing care insurance against company pensions as well. This damage caused to the confidence in the establishment of old age provision outside the public system which was publicly discussed very controversially both during the legislative process and in the political debate will have long-term effects on the willingness to make supplementary provision for old age and increase rather than reduce poverty in old age.<sup>55</sup>

Social policy reveals that cutbacks in benefits may lead to more and more increases in contributions nonetheless. Due to linking it with employment liable to contribute to social security, which decreases, the contributors must pay more and more for benefits tending to become increasingly lower, without being able to drop out of the contractual relationship. On the other hand, politics will always have to readjust the proportion of contributors, tax receipts and benefits to be granted. The increase of contributions in December 2002 is now followed by a larger contribution by annuitants to the nursing care insurance and a non-increase of pensions. If, in addition to that, a partial relief by means of taxes were brought about for the compulsory pension scheme - as compensation for the manifold consequences of German reunification and the influx of migrants of German descent -, this would almost constitute a balanced model of an equal distribution of burdens, before all since with the revision of social assistance with effect from 1 January 2003 access to basic security in old age and in case of reduction of earning capacity has been facilitated.

But this is only one aspect. In fact, the group of persons who have achieved the reconstruction of the 1950's and worked in gainful employment stabilising wealth in the 1960's are now used as examples to demonstrate how little soundness promises concerning social law may have in the end: With the system of a double index-linking of their wages from gainful employment - projecting contributions to the corresponding value at the time of entry into the pensionable age and an annual adjustment according to the general development of incomes - introduced in 1957, "old age without distress" was aimed at and the promise of old age provision held out which would correspond to the amount of one's life work. If a change is desired here, this is possible only for the contributors who have worked, or are still working, under different conditions for provision in old age. Notwithstanding this, the most recent legislation for safeguarding of the standard of pensions during the next 30 years shows that poverty can apparently be prevented via the existing pension system under the most favourable conditions only. Consequently, changes in direction reforming solidarity equalisation in society as a whole are necessary.

Signs are increasing which indicate a change of system in the compulsory pension scheme: The statutory revisions affect in the first line the future, but not the current annuitants; the principle of safeguarding the standard of living is clearly called into question. Strengthening of private provision for old age planned as compensation is possible only, if the current household incomes allow it. For these means are to be taken from the current budget and thus diminish the household incomes in the middle and lower brackets that can actually be spent.

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<sup>55</sup> Frankfurter Rundschau vom 23. Dezember 2003, Seite 2

Even in the middle income group this is problematical for families. In the lower income groups, there are basically no incentives for old age provision, because it is completely unclear whether the low savings will sometime result in considerable benefits. In future, the risk of poverty is likely to be intensified among the lower class and even carried into parts of the middle class.

The latter also affects the recipients of benefits of nursing care insurance. Chronic illnesses and the increase in the number of persons advanced in years suffering from mental and physical disability due to age lead to a rise in the cost of nursing care. Prior to the introduction of the nursing care insurance system in 1995, the use of in-patient care especially meant the necessity for many persons to apply at least for supplementary social assistance. Nursing care insurance has brought about a relief for the affected persons and the municipalities, although this relief is increasingly used up by rising hospital costs.<sup>56</sup> New financing models are under discussion now, for example introducing the formation of coverage capital in the nursing care insurance system (Herzog Commission of the CDU).<sup>57</sup> But this is no solution, if for no other reason than that the majority of the population is not able to set up a sufficiently large capital stock, independently of the circumstance demonstrated as early as in 1952 by Gerhard Mackintosh<sup>58</sup> that benefits out of funds according to the coverage capital procedure are, looking at the economy as a whole, principally not financed any differently than benefits according to the adjusted contribution procedure. The decisive point is that humane nursing care causes costs which are in the final analysis to be paid for out of the respective economic time period and that nursing care under a generally tax-financed system would in any case be supported by a broader solidarity community than at the moment by the social community of the contributors placing a one-sided burden on the factor labour. Whereas politicians see an explosion of costs coming here, they are not prepared to initiate tax legislation burdening the general public. The opposite happens: the reduction of taxes is propagated as panacea for economic growth, without taking into consideration the negative consequences especially for the social exclusion in old age and in case of need for nursing care.

#### **d. Children / Juveniles / Training**

Children are not a poverty risk, but certain children suffer especially from the risk of being reduced to poverty. The selective effect of the pre-school and school system affects children and juveniles of certain social classes in a particular way:

- Children of migrants are disproportionately attending special schools and also make up a particularly high part of children and juveniles leaving school without having completed secondary modern school.<sup>59</sup>

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<sup>56</sup> s. First Report 2003

<sup>57</sup> Bericht der Kommission „Soziale Sicherheit“ zur Reform der sozialen Sicherungssysteme, Berlin 29. September 2003, [http://cdu.de/tagesthema/30\\_09\\_03\\_soziale\\_sicherheit.pdf](http://cdu.de/tagesthema/30_09_03_soziale_sicherheit.pdf)

<sup>58</sup> Gerhard Mackenroth: Die Reform der Sozialpolitik durch einen deutschen Sozialplan, in: Schriften des Vereins für Sozialpolitik. Gesellschaft für Wirtschafts- und Sozialwissenschaften. Neue Folge. Band 4. Verhandlungen auf der Sondertagung in Berlin, 18. und 19. April 1952. Hg. von Prof. Dr. Gerhard Albrecht (1952), S. 39 ff., Berlin

<sup>59</sup> Deutsches Institut für Wirtschaftsforschung: Bildungsbeteiligung von Ausländern: Kaum Annäherung an die Schul- und Berufsabschlüsse von Deutschen, in: Wochenbericht Nr. 39/2003, Seite 588 ff.

- For girls with a migration background, there are additional disadvantages conditional on gender. Frequently growing up in traditional family circumstances, their personality is moulded, partially due to their social origin, not so much with a view to advancement at school, but only to early marriage etc.
- Disadvantages can also be seen among German pupils having difficulties with learning. Although an official database is still missing, there is some evidence, that the problem of "truants" is on the rise. This provokes public debates and political decisions how compulsory school attendance subject to state regulation can be enforced, by the police and/or by special educational measures.<sup>60</sup>
- The phenomenon of urchins is increasing. According to information by the Federal Office of Criminal Investigation, the number of missing children (excepting child abduction) has continually risen from ca. 6,300 in December 1993 to almost 8,200 in April 2002.<sup>61</sup>
- According to estimates by the trade unions, a large group of the applicants for a vocational training place apparently came away empty-handed in 2003. Official datas quote a lower quota of insufficiently supported in the vocational system. But nevertheless, at the same time, there are complaints about the lack of specialists for whom Greencard regulations as flexible as possible are demanded in order to bring persons educated abroad to Germany. At bottom, education expenses are to be saved and de facto to be shifted abroad. Simultaneously, a growing number of critical remarks about the willingness and capability of young people to receive training are registered. It is not always clearly distinguished here in how far this is a result of the demands on qualifications which have changed altogether, on deficits for which the school system is to be held responsible and/or on the young people themselves, or whether we are, all in all, dealing here with a mix of different factors. The current debate about a training place levy is an attempt to create at least a short-term perspective in industry-wide places of training.<sup>62</sup>

Childhood and youth as a whole have ceased to be a natural resource of the future. For only children and juveniles are sufficiently supported any longer who come up to the growing requirement of flexibility of our economic everyday life, and during their lifetime only as long as they meet this requirement. Quite a few measures of current policy for children and juveniles, before all of education policy, push this selective process in a way which sometimes can only be called cynical and replace the conservative idolisation of the middle class culture of the 1950's with the ideal of the individual person who is instrumentalised, efficient and independent of private responsibilities and allows himself to be made more and more flexible - all his life. Whoever appears not to come up to this ideal, does not or no longer come up to it, whoever does not or no longer deliver the necessary adaptation achievement required in shorter and shorter phases, is socially excluded and subject to sanctions by the

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<sup>60</sup> Jeanne Rubner: Im Rucksack nichts als Angst. Lehrer und Eltern fühlen sich überfordert, in: Süddeutsche Zeitung vom 26. Juni 2003; Frankfurter Rundschau vom 1. März 2004, Seite 6 und vom 2. März 2004, Seite 9

<sup>61</sup> [http://www.offroadkids.de/05\\_situation/index\\_situation\\_4.htm](http://www.offroadkids.de/05_situation/index_situation_4.htm)

<sup>62</sup> Frankfurter Rundschau vom 10. Oktober 2003, Seite 33 und vom 13. März 2004, Seite 10

social policy.<sup>63</sup> In spite of bad marks given to the German school system by the OECD-PISA study, politicians are talking before all about one aspect, namely the promotion of an elite,<sup>64</sup> but not about ways and means how social integration processes for children and juveniles could be improved which, if understood and done correctly, does not have to be, nor is in the final analysis, a contradiction to promoting, among others and before all, the elite.

#### **e. Migrants**

For decades, Germany has been living a balancing act between migration and the self-image not to be an immigration society. The long haggling about an immigration law gives away the chances to understand migrants as a constitutive part of a multicultural society. Yet in everyday life this integration has been taking place for years. The sector of an economy sustained by migrants who, in addition to providing a livelihood for the foreigners, meanwhile also makes apprenticeship and training places for youths with a migration background available, has taken shape by no means in niches only. However, a large part of this economy is also an economy of niches, for instance in the smaller services sector and in the field of services relating to households and individuals; in large parts, the German economy has received an ethnic substructure.<sup>65</sup>

The blatant unequal treatment of migrants becomes obvious here in particular, when it comes to the treatment of ethnic Germans from Eastern Europe who are offered better starting and integration chances. Nonetheless, it is these groups among all others which, not the least shaped by structurally different social and gender behaviour, e. g. in the Russian society, are causing special problems today in the integration process - problems which can no longer be punished with instruments of the law concerning aliens, because they have become German citizens even before entering German territory. For all that, there are indeed potentials here, also and before all for an ageing society, except that a concept for integration is required which is consistent within itself, linguistically, culturally and relation-wise.

### **4. Mobilise all actors**

#### **a. Public and publicised opinion**

Since 2002, the year of the Bundestag election, no other subject has dominated public and publicised opinion as deeply as the question of social policy and its perspectives, only sometimes interrupted momentarily by other important events. A contradiction is frequently found here in the media, corroborating on the one hand the necessity of reforms in general and in concrete terms, but then pointing at the negative social effects for the individual and individual social groups. At the same time, the respective political tactics of the government and the opposition were supported in the course of concrete legislative procedures, sometimes openly,

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<sup>63</sup> Ute Klammer, Katja Tillmann: Flexicurity: Soziale Sicherung und Flexibilisierung der Arbeits- und Lebensverhältnisse, Forschungsprojekt im Auftrag des Ministeriums für Arbeit und Soziales, Qualifikation und Technologie des Landes NRW, Düsseldorf 2001; Norbert F. Schneider, Ruth Limmer, Kerstin Ruckdeschel: Berufsmobilität und Lebensform. Sind berufliche Mobilitätsanforderungen in Zeiten der Globalisierung noch mit Familie vereinbar? Schriftenreihe des Bundesministeriums für Familie, Senioren, Frauen und Jugend, Band 208, Stuttgart 2002

<sup>64</sup> Critically: Oskar Negt: Ein missbrauchter und entehrter Begriff, in Frankfurter Rundschau vom 26. Januar 2004, Seite 8

<sup>65</sup> Harald Schumacher: Einwanderungsland BRD, Düsseldorf<sup>3</sup>1995

sometimes hidden, without finding an answer to the question how many cuts at which positions would bring how much economic growth and employment. Quite in contrast to the 1950's, when an open reform discussion took place, a hotchpotch of models was now dished up which as a rule purported to be able to show the only true way out of all symptoms of crisis by means of simple cuts and changes ("tax declaration on a beer mat"). What was and still is missing, both in the media tending to support the government parties and those tending to support the opposition parties, is a balanced discussion who will be the winners and losers in this process. On the whole, the context between economic structural change, German reunification and migration from Eastern Europe on the one hand and their consequential effects on the system of social security on the other hand remained almost taboo, as was the case in politics.

### **b. Protests by citizens and organised social interest groups**

In contrast, there has been a broad wave of public protests in which many individual persons participated, but also the trade unions, social associations, the non-statutory welfare organisations and other social NGO's.<sup>66</sup> In North Rhine-Westphalia, even an initiative against cuts in the state budget for the area of open youth welfare services was successful<sup>67</sup> and now forces the state Parliament to review its decision again; the state government has meanwhile revoked part of the planned cuts in this sector.<sup>68</sup> But in comparison to previous social conflicts more and more resignation takes places in some social groups. Sorrows about how to organise the own life and livelihood are leading to a feeling of being socially and politically excluded, with the one consequence that more and more electors won't participate in official polls any longer.

Notwithstanding the fact that the non-statutory welfare organisations, as component of the comparatively organised welfare state, are strongly dependent on the regional and local welfare state, they have raised their voice, partially in a very open way, against the local and regional policy of budget consolidation at the expense of the socially most vulnerable. In Hessen, for example, the non-statutory welfare organisations responded to the policy of the state government to effect savings exactly where resistance is socially the weakest by breaking off all talks with the state government. Besides, some of these associations have deliberately tried to mobilise their resources in fields where the abolition of public services would have especially harsh effects within the meaning of social exclusion.<sup>69</sup>

### **c. Science**

In this process of discussion, science has all in all played a larger role than before. Numerous scientists participated in the Hartz, Rürup and Herzog Commission. Besides, a large number of proposals concerning individual questions as well as overall solutions were made. Finally, both on the side of the supporters of the course adopted by government and opposition in the parliamentary procedure and on the side of their critics, numerous scientists raised their voice in public and published statements pro and con. Whereas in the camp of the supporters these

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<sup>66</sup> U. a. Frankfurter Rundschau vom 11. Dezember 2003, Seite 37, vom 30. Dezember 2003 Seite 33 und vom 3. Januar 2004, Seite 25

<sup>67</sup> siehe: <http://www.volksinitiative-nrw.de>

<sup>68</sup> Marler Zeitung vom 3. Dezember 2003, Seite 1

<sup>69</sup> Frankfurter Rundschau vom 15. Dezember 2003, Seite 31

of safeguarding the location Germany in a globalised competition setting predominated,<sup>70</sup> factors of social exclusion and its political consequences were emphasised by the opponents.<sup>71</sup> On both sides, very little attention was paid to looking at the problem from a European perspective, namely that inside a uniting Europe, with a common currency and monetary policy on top of that, the degree of nationalised competition needs to be restricted by means of socio-political and fiscal minimum standards so as not to risk a continuing process of social exclusion between competing welfare states inside the European Union.<sup>72</sup>

#### **d. Inclusion of the non-statutory institutions of welfare work in the discussion about cutbacks**

In this connection, the representatives of non-statutory welfare organisations are facing the dilemma that on the one hand they have to and want to scandalise these cutback effected in the end at the expense of their clientele, but simultaneously being forced to manage their own budgets more restrictively. This concerns staff cuts and higher efficiency of their own services due to the parameters dictated by the public financiers. This makes them open to attacks and at the same time forces them to take the initiative how existing standards may be kept under different out-line conditions at least to the largest possible degree. The debate about ethical role models and maxims gets into conflict with the debate about more extensive cost-performance accounting, while at the same time both are searching for syntheses.<sup>73</sup>

#### **e. Involvement of leading associations**

The representatives of social interests are involved in the reform discussion at all stages, even though their influence on the course of decision-making has remained rather marginal in view of the obvious exploitation of the legislative process for making their mark for political party purposes.

### **IV. Recent Debate**

The Hartz Commission was an attempt to get parties with different, conflicting interests and different expertise round the table in a procedure which is quite usual - for example in the Netherlands and other EU states - for as long as a possible workable concept will have been drawn up which has tried to reach the largest possible degree of consensus not only inside the group, but also inside society. Critical objections against the Hartz Plan have rightly been raised, but it has also rightly been acknowledged that positive experience, for instance from other countries, has been applied to German structures and chances for an improvement of the situation on the labour market have been sought. The Rürup Commission already deviated decisively from this approach insofar as it obviously served individual members as a vehicle

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<sup>70</sup> U. a. Hans-Werner Sinn, Institut für Wirtschaftsforschung, s. Frankfurter Rundschau vom 1. Juli 2003, Seite 4

<sup>71</sup> „Hessen muss sozial bleiben“, Aufruf von Vertretern der Wissenschaft und der Fachpraxis Sozialer Arbeit, in: Frankfurter Rundschau vom 1. Oktober 2003, Seite 9; „Regelsatzverordnung beschädigt Eckwert des Sozialstaats“, in: epd-sozial Nr. 11/004, Seite 12 f.

<sup>72</sup> Benjamin Benz, Jürgen Boeckh, Ernst-Ulrich Huster: Sozialraum Europa. Ökonomische und politische Transformation in Ost und West, Opladen 2000; Benjamin Benz: Nationale Mindestsicherungssysteme und europäische Integration. Von der Wahrnehmung der Armut und sozialen Ausgrenzung zur Offenen Methode der Koordination, Wiesbaden 2004

<sup>73</sup> Bernhard J. Güntert, Franz-Xaver Kaufmann, Udo Krolzik (Hg.): Freie Wohlfahrtspflege und europäische Integration, Gütersloh 2002

to make their mark instead of developing a pertinent common plan. The Herzog Commission was a political party event and avoided to involve critics of the CDU/CSU.

The development in the Federal Republic of Germany in the social sphere has so far been characterised by the coexistence, but mostly the sequence of consensus procedure and belligerent behaviour. Both are missing at the moment. There is neither a policy nor weighing risks and chances, burdens and relief, nor belligerent behaviour to push through or prevent certain points at least in partial fields. What Ludwig Erhard wanted to achieve with his idea of a "formed society" is happening now to a large extent, namely a restraint of social interests critical of industry and commerce in order to be able to give way, better and unhindered, to the pressure exerted by industry and commerce, their Europe-wide and worldwide interests, which is becoming more and more manifest. The European Commission and the monetary policy agreed by the EU Finance Ministers lend this support. This virtually includes exclusion strategies, if not provoking them directly. Yet there is, without doubt, more room for action on the national level than is used at the moment, there are more alternatives for action on the regional level than officially conceded, as a comparison of Hessen and North Rhine-Westphalia shows (on this point see our 2<sup>nd</sup> Report planned for autumn of this year), and there are finally different options of handling on the level of the municipalities and also the local Job Centres, as is daily reported in the media. However, a policy against social exclusion consistent within itself must be able to place its hopes in a platform of minimum standards valid throughout the Union, because otherwise it will not be possible to curb the "race to the button".