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***Communication from the European Commission
of 30 December 2003
"Modernising Social Protection
for More and Better Jobs
– a comprehensive approach contributing to making
work pay" [COM(2003) 842 final]***

Joint Position Paper

***of the Umbrella Organisations
representing the German Social Security System***

***and the
Federal Employment Agency***

put forward in June 2004

I. Foreword

The Communication addresses important issues arising during the basic direction to be taken by social security systems as well as how they should be fine-tuned. Furthermore, it is becoming clear that the effects of incentives should be taken into account with regard to benefits as well as contributions.

The topic calls for a basic introductory remark. Social policy derives input from several sources. Besides the policy goal relating to the labour market especially pursued in the Communication of avoiding misguided incentives, poverty and low-income traps, the socio-political aim of all societies and also at the European level is to concentrate certain social benefits on those who need them most. However, it is not always possible to reconcile these aims. Rather, they may conflict in a given concrete situation and send contradictory messages. Such a problematic scenario, which was also indirectly pointed out by the Commission is, for example, the integration of poor families with many children. Even if both parents were employed full-time this would often not suffice to guarantee the livelihood of all family members in this instance. However, selective support cannot be achieved without introducing means-tested benefits. Such tests will however reduce the incentive to resume work or to look for a better-paid, more qualified job. There are other examples, of course. In this context, the Commission rightly observes that high or reasonable social protection level often negate incentives to resume work and that there is no ready-made solution for the ensuing problems.

Therefore, we need an actively designed social policy which sets the right priorities. These must be supported by the societies according to their national practice and democratic opinion-forming processes and, if necessary, adapted to the prevailing conditions in a flexible manner. The umbrella organisations of the German Social Security Systems are therefore convinced that a binding clarification of the issues mentioned in the Communication may only be achieved at the level of the Member States and with the participation of the social partners. At the same time, however, the process of an exchange of experiences initiated by the Commission is particularly appreciated. This is an ambitious project, in particular because the success (or failure) of discrete structural factors are difficult to assess without understanding the overall system concerned and its effects. Nevertheless, the umbrella organisations of the German Social Security Systems view the following basic statements in the report positively:

- stressing the necessity of making high-quality and easily accessible child care facilities available free of charge or at low cost in order to improve incentives for employment of both parents;
- clear support for the provision of high-quality medical rehabilitation services and occupational rehabilitation measures for better integration of the partially disabled into the job market;
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pointing out the necessity to extend the actual retirement age while simultaneously making individual access to pensions more flexible, considering adequate pension supplements or reductions in case of deferred or early retirement respectively;

- cancelling the means test for old-age pensions.

II. Detailed comments

1. Selective integration of people with disabilities

In point 3 of the Communication, second paragraph, a great variety of benefit schemes is described, dealing with issues of occupational reintegration. As correctly stated in article 3.4.2., these have to cooperate at an early stage to achieve optimal medical and professional rehabilitation. If several organisations are involved in the rehabilitation process in Germany, these have the legal responsibility (according to §§ 10-13 of the Code of Social Law IX, regulating specifically the affairs of persons with disabilities) to initiate the necessary measures as if it was all being done by a single organisation. The law thus prescribes the extensive coordination of benefits within the structured rehabilitation systems, the majority of these being occupational rehabilitation benefits. In implementing this provision, the German rehabilitation systems concluded a new “Common recommendation for the smooth, speedy and uniform generation of shared benefits“, the so-called common “Uniformity/Efficiency” recommendation. It aims to procure a share of the job market for disabled persons or persons threatened by a disability while preserving equal opportunities in coordinated processes intended to reduce interface problems. Here, an essential issue is, for example, the creation of common service centres with comprehensive counselling and support for disabled persons on all issues of their professional reintegration. Furthermore, each rehabilitation centre has to examine its internal administration system to see whether, in the various insurance cases, indications of possible rehabilitation requirements are identified and processed in a timely and selective manner (which may be achieved by, e.g., special case management regarding the selective evaluation of hospital discharge reports or disability and hospital data).

Furthermore, thanks to an amendment of the Social Code (SGB) Volume IX, which entered into force on 1 May 2004, selective reintegration management was introduced: § 84, paragraph 2 SGB IX obliges employers to implement company reintegration management for employees who are off work for more than six weeks due to illness or disability, and which may be sponsored by the rehabilitation centre in the form of financial contributions to the employer.

2. The role of statutory accident insurance in comprehensive integration - management after an occupational accident or illness

By law, accident insurance institutions have to re-integrate insured persons, permanently if possible, into the world of work “by all appropriate means” and at an early stage, depending on their capabilities, taking into account their aptitude, disposition and previous jobs. Therefore, those persons should have all the financial and non-financial benefits made available to them, as required in the Commission Communication.

- **Integrated system**

Following the principle of providing benefits "as a package", the accident insurance institutions who provide pension benefits are at the same time responsible for medical, professional and social rehabilitation of the insured. For this purpose, they put their own respective qualified personnel at their disposal. As demanded in article 3.4. (page 18) of the Communication, the "speedy reintegration" of persons who have suffered an accident or an occupational illness into the job market is achieved by the cooperation of qualified rehabilitation personnel (so-called professional assistants) with experts in ergonomics and workplace design. This avoids any friction which might be observed with separate powers and responsibilities. Coordinated medical and professional rehabilitation measures – including proper job-finding services – serve to rehabilitate and exploit the employability of the insured. Experience gained from individual cases will help specialised accident prevention personnel to take preventive measures, serving primarily to prevent insurance claims and in this way boost the employment rate. Thus, the German legal accident insurance system fulfils the requirement for modernity and exploiting synergies and efficiency potential by using combined benefits.

- **Financial incentives**

Financial incentives to resume work for people with partial disablement are available for employees, on the one hand, as legal accident insurance does not cut financial (pension) benefits upon resumption of work. On the other hand, financial benefits may be granted to employers too (such as subsidising workplace re-design to reintegrate a disabled employee, payment of salary during a trial period, etc.).

- **Integrated Disability Management**

Furthermore, the efforts of legal accident insurance to promote employability are embedded in a strategic integrated approach of disability management, which stands out through its "activating" approach, i.e., not by stressing the disability but rather the ability of the person with disabilities. This corresponds to the demand in article 3.4.1, not to focus "on the disability", but rather "on the remaining ability".

The professional associations (responsible for the operation of legal accident insurance) have, in the context of this integrated approach, acquired the license for a training course and objective test procedures for Disability Management. ILO now recommends these measures, and is supporting their acceptance throughout Europe.

3. Role of the Federal Labour Agency in the rapid integration of job seekers into the job market

The Federal Labour Agency basically fulfils two main tasks: the reintegration of job seekers in a rapid and sustained manner into the job market, and fast and exact payment of financial support out of unemployment insurance funds in the event of unemployment.

Extensive organisational and task-related changes in the Federal Labour Agency will help, among others, to make the reintegration of job-seekers more effective and efficient, help more young people find a training place or job and increase the percentage of older workers. This

also involves the aim of spending contribution funds even more economically in order to achieve a reduction of contributions to unemployment insurance in the long run and thus help to reduce additional wage charges. Furthermore, the extension of working life is a declared aim of the Federal Labour Agency's measures, together with cuts in the entitlement period for older unemployed workers as well as specific actions to reintegrate older workers into the job market. On the whole, it should be stressed that incentives mentioned by the EU to convert benefit recipients into wage earners are reflected in the amendments of the Federal Labour Agency's benefit scheme.

Specifically the following was newly regulated under the catchword "Promoting and supporting":

- the reasonableness of an occupation for unemployed workers was tightened;
- profiling for early detection of placement risks was introduced;
- integration agreements with the unemployed reinforce the willingness to integrate;
- organisational measures to reform the Federal Labour Agency accelerate the integration into employment;
- the entitlement periods for financial benefits were cut by timely actions to reintegrate unemployed workers;
- the entitlement period for benefits for older unemployed people was shortened;
- as of 1 January 2005 the "unemployment benefits II" allowance will cover both the unemployment aid and the social aid in order to offer a still better service to reintegrate the long-term unemployed.

4. Combating illicit work

In the final paragraph of article 3.3, the Communication points to the necessity to convert illicit work to legitimate work. The German legislator is currently putting a lot of effort into solving this issue. In the summer of this year, the law to intensify the fight against undeclared employment and the associated tax evasion will enter into force. It foresees drastic sanctions in case of undeclared and illicit employment. A new recourse clause in accident insurance determines, for example, that the employer undertakes to refund the entire medical treatment and pension costs to the accident insurance institution, since illegal workers are nevertheless fully covered by insurance. The legislative explanatory comment expressly states that the law serves to improve the framework for legitimate employment.

5. Quality of work

It should be added that it is mainly the quality of work and especially safety in the workplace which are an incentive to resume work (see Communication Point 5. (3)(b)). The prevention of occupational accidents and illnesses contributes considerably to the creation of better workplaces. Successful prevention guarantees a stable employment rate. A modernisation of social protection in a horizontal approach should take into account the efficiency potential created by close cooperation between accident prevention and benefit services (see notes in chapter II.2. in this joint position paper).

III. Critical remarks

1. Extension of working life beyond regular retirement age

The Commission is of the opinion that in future people should extend working life beyond regular retirement age in order to – if necessary in combination with their pension – have an adequate income. Achieving the aims of Barcelona for the year 2010 would thus mean continuing to work well beyond the age of 65. In this respect we have to contradict the Commission emphatically. The aim of a socially reasonable old-age pension insurance policy is and should remain to provide workers with an adequate pension when they reach normal retirement age. This does by no means exclude that those who want and are able to continue to work beyond the normal retirement age may do so. The protection of an adequate standard of living must, however, be guaranteed regardless. Furthermore, an "adequate" old-age pension should not be reduced to mere poverty prevention. The umbrella organisations of the German Social Security Systems stress that it is absolutely necessary to embody this protective aim firmly in the ongoing "streamlining process" and should form the centre of the "pensions" pillar.

2. Partial disablement pensions

The umbrella organisations of the German social security systems agree with the relevant statements of the Communication insofar as, according to social legislation the assessment of the ability to work, the job market risk should not be the decisive criterion in the end. However, looking at it merely from the medical point of view will not meet the underlying aims of the respective social security branch in each case. Finally – contrary to the concerns mentioned in the Communication – the consideration of the income actually earned may not be abandoned from the outset. It cannot be ruled out that the cancellation of a disability pension as a consequence of earned income would negatively affect the readiness to resume and continue working. On the other hand, the payment of pensions for medical reasons, for example, despite the actual continuation of the previous job is likewise misguided from a socio-political viewpoint. An intelligent compromise will have to be found; there are no perfect solutions. A possible approach is the payment of graduated pensions when continuing to work while drawing a pension, where payments would be graduated according to the earned income.

3. Reduction of social security contributions for older employees

Finally, we have to contradict the Commission's opinion that chances for elderly people on the job market (apparently as of the age of 55) would be improved by "cuts in social security contributions". Depending on the concrete procedure there are several reasons why such a policy would not work:

- a reduction or cancellation of contributions towards pension insurance would result in substantial cuts in subsequent pension payments;
- to have the effect of an incentive, contributions would have to be reduced considerably. This would jeopardise the financing of social security systems;
- moderate cuts may in theory be cushioned financially with the State filling the gaps resulting from lower contributions, either by expenditure on contribution subsidies or by assuming the costs for pensions not adequately covered by contributions. In the Commission's Communication, however, there is no indication that it prefers this solution. Furthermore, the overall national budget would be further strained, which can hardly be reconciled with the European policy of a "sustained" budget policy oriented towards stability. Furthermore, with a moderate reduction only the free-rider

effects would dominate: The employment of older workers, who would have continued working even without additional funding, would be subsidised, while, on the other hand, the incentives would not suffice to significantly improve the employment prospects of older workers who had no chances so far.

- Finally, the discussion about cuts in social benefits does not exclusively have older employees in mind. Discussions taking place on a national as well as European level consider any so-called "problem groups" on the job market as possible candidates for cuts in social contributions: the disabled, people looking for their first job, the long-term unemployed, low-wage earners and unskilled workers, the self-employed – at least during the start-up phase, etc. To this have to be added cuts due to family policy motivations. If we follow the Commission's reasoning as stated in the Commission's Communication consistently to its logical conclusion, the "normal" contributor of non-reduced social contributions risks becoming the exception.

IV. Concluding acknowledgement

The Communication contains many considerations providing food for thought. For the most part, these are already reflected in Germany's social policy. However, there is cause for concern in that the innovations are focused in many instances on mere cuts in social benefits. From this viewpoint, the strategy of "making work pay" risks to confront individuals with the alternatives of "poverty and exclusion" on the one hand, or "work at any cost", on the other. However, a policy having qualified and well-paid work in mind should put more emphasis on activating and integrating measures and benefits. In this area, the German social insurance institutions can look back on many years of experience, mostly in the area of professional and medical rehabilitation. The umbrella organisations of the German Social Security Systems will gladly make these experiences available also at the European level to the relevant institutions of the other Member States.

This joint position paper is supported by the following umbrella organisations of the German Social Security System:

- AOK-Bundesverband**
- Bundesverband der Betriebskrankenkassen**
- Bundesverband der Innungskrankenkassen**
- Bundesverband der landwirtschaftlichen Krankenkassen**
- Verband der Angestellten-Krankenkassen**
- Arbeiter-Ersatzkassen-Verband**
- Bundesknappschaft**
- See-Krankenkasse**
- Hauptverband der gewerblichen Berufsgenossenschaften**
- Bundesverband der landwirtschaftlichen Berufsgenossenschaften**
- Bundesverband der Unfallkassen**
- Gesamtverband der landwirtschaftlichen Alterskassen**
- Verband Deutscher Rentenversicherungsträger**
- Bundesagentur für Arbeit**