



News Letter

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Observatory for the Development of Social
Services in Europe

The European Social Model

Nowadays, the term “European Social Model” (ESM) is used in a variety of contexts. On the one hand, it can be understood as a historic achievement and as the sum of individual national social models. In a normative sense, it can also be seen as a guide for future action in a dynamic integration process of the various social systems and social structures of European countries as they gradually converge.

Central elements

In the 15 “old” EU Member States, the European Social Model is based on two main pillars: on the one hand on a comprehensive and efficient *system of social protection* that shields individuals from typical social risks, and on the other on the *social dialogue*, i. e. the dialogue between the various political bodies and the social partners as well as the dialogue among the social partners, both at national and at supra-national level. The

Barcelona European Council of March 2002 defined the *European Social Model* (ESM) as follows: “*The European social model is based on good economic performance, a high level of social protection and education, and social dialogue.*” Economic, employment and social policies must be linked with one another within the scope of this normative model. The ESM therefore indeed involves concrete references to the Lisbon modernisation strategy.

From the point of view of non-EU countries, past achievements such as universally accessible systems of education and health, “institutionalised solidarity” within comprehensive social protection structures, income gaps kept relatively small through redistribution, the contribution of social protection to economic productivity and a high degree of social peace resulting from a well-articulated social partnership and from the *social dialogue* are the *results of specific policies* that have led to the evolution of the ESM.

The *values* embodied in these achievements include human dignity, equality, justice, solidarity and subsidiarity. It is no coincidence that these values correspond to the basic values, principles and rights expressed in the *Charter of Fundamental Rights of the European Union* and therefore in Part II of the *Treaty establishing a Constitution for Europe*.

The modernisation of the European Social Model

To make sure that the European Social Model remains efficient, our task for the future is to adapt it to current challenges – globalisation, European integration, demographic change, changes in the world of business and employment, particularly the transformation of our society from an industrial to a service society, etc.

This need to update and modernise the ESM is closely connected with a growth-oriented economic policy, a successful employment policy, an adaptation of national social security systems to these challenges at national level, and the modernisation strategy at European level, so that the ESM may in future assume a leading political function. It is no coincidence that the ESM is on the political agenda of the current British EU presidency.

As the modern social question for the Member States of the EU is also a *European social question*, adapting the ESM to changed conditions must inevitably be pursued as a multi-level policy.

The EU's Lisbon Strategy (2000, updated in 2005) seeks to develop a common approach of the Member States to the challenges posed by globalisation, by EU expansion and by the latest steps towards Euro-

Editorial

DEAR READER,

AS A REACTION TO THE REJECTION OF THE DRAFT EUROPEAN CONSTITUTION IN FRANCE AND THE NETHERLANDS, THE EU HAS CALLED FOR A PERIOD OF REFLECTION. THE REFLECTION SHALL BE ON THE CHARACTER OF THE EU IN GENERAL AS WELL AS ON THE ROLE OF EMPLOYMENT, HEALTH AND SOCIAL POLICIES AT EUROPEAN LEVEL – WHICH TACKLES THE QUESTION OF THE CURRENT STRUCTURE AND THE FUTURE OF THE EUROPEAN SOCIAL MODEL. THIS WAS REASON ENOUGH FOR THE BRITISH PRESIDENCY TO GIVE THE TOPIC OF THE EUROPEAN SOCIAL MODEL A HIGH PRIORITY IN ITS POLITICAL AGENDA, AND FOR US IT IS AN OPPORTUNITY OF DEDICATING AN ISSUE OF OUR NEWSLETTER TO IT.

IN HIS EDITORIAL ARTICLE, BERND SCHULTE DESCRIBES VARIOUS VIEWS AND FACETS OF THE EUROPEAN SOCIAL MODEL. IN DOING SO, HE OUTLINES THE CENTRAL ROLE OF VALUES AND RIGHTS. THE EFFECTS OF THIS MUCH DISCUSSED FOCUS OF ATTENTION ARE EXAMINED BY JANE PILLINGER IN THE GUEST COLUMN ON THE QUALITY OF SOCIAL SERVICES. CORNELIA MARKOWSKI SPOTLIGHTS THE CURRENT STATE OF DISCUSSION ON THE EUROPEAN SOCIAL MODEL IN HER REPORT ON THE ICSW CONFERENCE ON THE FUTURE OF THE EUROPEAN SOCIAL MODEL, WHICH TOOK PLACE IN LUCERNE IN JUNE. FINALLY, ANNA ENGLAENDER AND SABINE DREES WRITE ABOUT THE CURRENT STATE OF THE CONSULTING PROCESS ON THE “DIRECTIVE ON SERVICES IN THE INTERNAL MARKET” AND ABOUT THE REACTION OF GERMAN MUNICIPALITIES TO ITS MAIN PROVISIONS, WHICH ARE ALSO CENTRAL TO THE FURTHER DEVELOPMENT OF THE EUROPEAN SOCIAL MODEL.

WE WISH YOU PLEASANT READING!

THE EDITORIAL TEAM



Members of the panel the working group 1 of the Observatory's conference on the future of the European Social Model: Dr. Bernhard Spiegel, Austrian Federal Ministry for Social Security, Generations and Consumer Protection; Dr. Bernd Schulte, Max-Planck-Institute for Foreign and International Social Law; Dr. Stephanie Scholz, Diakonisches Werk of the Lutheran Church in Germany (from left)

pean integration linked with the European Constitution. To attain these objectives, the EU has announced its intention to become the most competitive and most dynamic knowledge-based economy in the world by 2010, and to do so on the basis of lasting and high economic growth, larger employment volumes, a high degree of social cohesion and financial and social sustainability.

Insistence on the European economy being knowledge-based means that *education and research* are to become indispensable conditions for overall economic growth and for individual participation in overall social prosperity. This, too, is expected to contribute to maintaining and developing the European Social Model.

Ever since the foundation of the European Economic Community, social policy had been subordinated to economic policy; with the *Lisbon Strategy*, however, an attempt is now being made to place economic policy and social policy on an equal footing and to give social policy a more independent role. One of the main reasons justifying these efforts is the consideration that social matters should not be seen only in terms of the costs they entail, but – for instance in the area of health and employment measures – as a productive factor and therefore as “investive” policies needing to be treated as such. However, the conclusion of the half-time revision of the *Lisbon Strategy* is that so far the results are poor, and consequently growth and employment policies are currently being given a clear priority over social policy objectives such as the fight against poverty and the promotion of social inclusion.

Instruments to implement the European Social Model

More and more, “convergent” developments in the social area are being managed with the help of the so-called *Open Method of Coordination*, a policy instrument applied in the area of employment and – since 2000 – of social protection. The goal of the OMC is to coordinate policy objectives and to enable the various actors to learn from one another on the basis of “good” or “best practices”. It is also being applied – admittedly in quite different manners – in the area of social protection, specifically in fields of policy such as social inclusion, old-age security, health and long-term care.

Not least in the context of social policy and with regard to the ESM, the service sector has recently been taking on crucial importance. In the European Union, some 70 percent of the workforce are now employed in this economic sector. However, in terms of employment, it is a sector characterised by heterogeneous growth. In services that are largely “rationalisation-resistant” – for instance the person-related health and social services that are relevant for the welfare states and characteristic for the ESM – we can expect an increase in employment figures.

In February 2004, the European Commission presented a draft Directive on services in the internal market. One of the aims of the proposal was to achieve greater employment volumes in the services sector. The draft Directive is based on a concept of extensive deregulation. However, individual elements of the proposal, primarily the introduction of the ‘country of origin principle’, have given rise to objections, some of them severe, with regard to sensitive areas such as health and social services. An appropriate solution here might be a special legal framework like a sector-specific directive.

The true significance of the planned establishment of internal market freedoms is rooted in the changed relationship between nation-based social services of general interest and European competition law. Since the 1980s, there has been a trend to replace social services provided directly by the state by a new model where the state acts as guarantor of the availability of services of general interest while the services themselves are provided by third parties on behalf of the state. This new model reflects the transition from an “intervening” welfare state to an “activating” and “cooperative” (but also more distant) welfare state. This *modern welfare state* is characterised by changes in the perception and exercise of its managing capacities, by a *shift from provider state to guarantor state*. One of the consequences of this transformation is that modern public administrations are increasingly subjected to *economic processes*. In this context, more and more *competitive elements* are being introduced, for instance in the provision of social services, an area which finds itself increasingly embedded in a “social market” and in competitive structures.

One of the consequences of this development is that *competition law*, and here more specifically *state aid rules*, have been playing an ever more important role in the provision of social services. This gives *European Community law* – particularly involving *European internal market law* – a growing significance for *social services of general interest*, which are provided on the basis of three premises: (1) the knowledge that modern, urban populations are particularly dependent on certain services; (2) the fear that “the free forces of the market” are not able to provide all of these necessary services (because of market imperfections or market failures) or to provide them in the socially desired manner, i.e. not in the requisite quantity or quality, or with the requisite degree of reliability, affordability or accessibility; and (3) the conviction that the state has a non-transferable responsibility for avoiding or eliminating deficits of this kind, and that it is obliged to ensure that these services are provided in the necessary manner and quantity – if necessary by providing them itself.

With the conclusion of the Treaty of Amsterdam and the introduction of the new *Article 16*, EU Member States have stressed the great importance of services of general interest and thus also upgraded the value of national services of general interest as an element of the ESM, including vis-à-vis internal market rules. In this regard, Community law provides for a *reservation of public interest* whereby the EU and the Member States jointly assume the responsibility for creating a balance between economic and social objectives and thus for realising the ESM.

And finally, the concept of a *Union citizenship*, which in the light of the judicial decisions of the European Court of Justice shows a strong social component, gives the increased value of social matters at Union level a specific, citizen-orientated legal content.

These developments are also well suited to “underpin” the legal foundation of the ESM and to strengthen it.

Dr. Bernd Schulte
Research fellow, Max-Planck-Institute for Foreign and International Social Law, Munich
E-mail: schulte@mpipf-muenchen.mpg.de

Rethinking the quality of social services in Europe

Social services increasingly have to respond to the articulation of new ways of interpreting and meeting needs within a rights based approach. This article will identify a framework for improving the quality of services within a user centred approach.

As social and economic problems have become more complex and multifaceted, so have the risks of social exclusion. Tackling these problems requires different approaches to public financing, service delivery and the production of welfare. A better understanding of new forms of identity and human activity allows for a better reaction to the complex and different needs, opportunities and risks associated with social exclusion and welfare dependency. These risks of exclusion and marginalisation are further exacerbated where there are difficulties in accessing services and deficits in services resulting in homelessness or bad housing, poor access to transport, poor health, poor living conditions, inadequate social and employment support services, isolation and service exclusion. People will be at greater risk of marginalisation if they live in poverty, in isolation, in rural areas, have weak family and social ties, in areas of high unemployment and where there are low employer incentives.

At the level of the European Union, there is now a recognition that access to employment for excluded and marginalised groups requires multifaceted strategies, including the promotion of equality, quality employment, provision of child and elder care to enable women to enter the labour market, provision of coordinated and tailored services, support, training and guidance services. EU policy has increasingly focussed on marginalised groups as seen in the policy areas of employment, anti-discrimination and social policy/social inclusion with the emphasis, since the Lisbon Economic Council, on the need for more and better jobs and increasing attention to anti-discrimination and social inclusion.

In the European and international context the discourse of rights is not unfamiliar language, although at the level of implementation at national levels it is often more difficult to articulate and operationalise these rights. This raises two inter-related questions:

- What rights and public duties are associated with social citizenship and therefore what rights, principles and values should underpin and shape social services across Europe?
- How can social policy making be reshaped and remodelled so that it genuinely takes account of multiple social divisions and inequalities?

The growth of quality initiatives across the world and particularly in developed countries has been related to the need to assure quality in an environment of contracting out and private provision, in making services more transparent and effective as well as a response to demands from users of services for more transparent, equitable and consumer/user orientated services. Often there is a gulf in perceptions of quality and the impact of services on the end user. This can be referred to as a quality gap which can include poor quality services, or at its worst extreme service exclusion.

There are a wide variety of quality initiatives now being driven by governments and international organisations. A key dimension missing from many of these is a wider framework of what constitutes quality. This requires a rethinking of quality improvement measures within a broad and interlinked framework of equality and inclusion, user involvement and participation, new and innovative ways of organising and delivering welfare services, including the coordination and integration of services, and the quality work (as well as work, working practices and professional development in the social welfare services). This is exemplified in figure 1.

This framework is particularly important as risks and needs have become more complex and as policy solutions have needed to be more imaginative, multifaceted and reflexive.

In figure 1 it becomes obvious, that all four areas are interrelated. If equality and inclusion lead

to greater user involvement and participation – this will impact on the delivery of front-line services.

A major and not unrelated research theme concerns the rights, duties, values and principles underpinning service quality. I want to particularly focus on user involvement and participation in service improvements. This includes quality improvements so that:

- User needs and perceptions of quality are translated into service planning tools, so that this more clearly spells out user entitlements, improves access to services and service standards.
- Service quality initiatives link into rights for service users, for example, about the services and standards of services they have a right to receive as citizens.
- A more integrated approach to the development of equality of access to services can be found. This includes the recognition of single and multiple identities around gender, age, disability, race, ethnicity and sexual orientation.
- New participatory methods for involving and consulting service users in service planning and delivery can be installed, through for example empowerment evaluation and feedback, advocacy services for the most vulnerable and marginalised people.
- An empowerment framework can be installed, including models for involving service users at individual, operational, strategic and governance levels.

- Performance indicators and benchmarking and a more rigorous and continuous monitoring of service quality from a user centred perspective can be introduced.

Ethics, values and principles

There are several dimensions to the debate about what values and principles should underpin service quality improvements. I will focus on the concept of care to exemplify a number of different approaches. First, are the debates about recognition, which emerge from struggles for recognition and identity politics. Williams (2001) argues for a political ethics of care and outlines four key principles that should underpin welfare organisation and delivery. These are mutualism, autonomy, inclusive diversity and voice. She suggests that “care should be central to social policy making since care is an activity that binds us all”. It also reflects a shift towards a new kind of welfare citizenship away from notions of dependency and “cared for” in care practices. Second, are the ways in which these values and principles should be rooted into equality principles and objectives. This includes work undertaken by Barker et al. (2004) which establishes a theoretical framework for linking equality to public policy making and which argues for the establishment of “foundation principles” of redistribution, recognition, representation and respect.

Tying these issues into a quality framework is critically rooted in more user orientated and outward looking service provision for those groups that currently experience poor services, discrimination in access to services, service exclusion and marginalisation. Whether these be mainstream or specifically targeted services, it is

crucial to ensure that the quality is experienced by the user and that it is measurable at the point of delivery.

These ideas pose some interesting learning for the development of social services so that they operate within a culture of continuous service improvement, efficiency, equality, well-being, social justice and inclusion.

This brings me back to the four linking dynamics of quality services and the changing nature of social policy making in addressing multiple social divisions. The objective is to have services that are responsive, accessible, reflexive and shaped around user rather than organisational needs. Rooting these in the principles of equality, inclusion, recognition, voice and rights, on the one hand, and of attentiveness, responsibility, competence and responsiveness, on the other hand, also means that working practices and organisational culture change in step.

The development of an equality framework for public services can help to give equality a strategic focus in public service planning and delivery. This can also build on good practice in equality and help create a culture of equality. Equality should be developed within a human rights context, with statutory duties to deliver equality, equality proofing mechanisms that could be applied to public services and a strategic equality framework for achieving equality outcomes. This can build on much of the good work that now exists on gender mainstreaming in the UN since the Beijing World Conference (1995) and that has led to a number of international organisations recognising the centrality of gender equality and empowerment to economic development. Furthermore, the links between poverty, exclusion and inequality are now better understood.

Situating social policy within a human rights context can be very helpful to this. Major changes to the law are needed to ensure that people that are excluded from participation in society because of their disability, age, ethnicity or sex have effective rights in both the workplace and in accessing quality services. This also means taking a more proactive approach to equality by challenging acts of inequality and actively promoting



Figure 1: The dimension of quality and social services

equality, rights and quality services. This means that public bodies should be placed under a legal duty to promote equality of opportunity and that individuals should have rights to claim services. Similarly there needs to be a more active promotion of a variety of information, advocacy and empowerment models that respond to the health and other needs of people with multiple disadvantages and disabilities.

What makes good quality services?

In conclusion, to exemplify the interrelated nature of these issues, I want to briefly highlight some key principles of good quality services:

- Participative approaches, where quality is linked to choice and autonomy for users;
- User orientated services: user involvement, empowerment, feedback etc. (including a wide range of possibilities from simple forms of consultation to co-decision making, delegation and control);
- Empowerment and user involvement in service planning and at an individual level to enable users to develop their own care packages and services;
- Quality improvements that include meaningful and practical methods of assessment implemented with the participation of both users and front-line staff;
- Quality objectives that are relevant and adaptable to local settings, with user involvement via a feedback mechanism, and clearly established practices managed at local levels;
- Quality standards developed in partnership with staff, management, users, parents and relatives, for example through a quality teamwork approach via "quality groups", "quality raisers", "quality awards" and/or internal forms of quality assurance through working communities.
- Quality performance indicators that cover areas such as user feedback, involvement and participation, coordination of services, information accessibility, physical accessibility and communications accessibility.

Finally, service improvements will need to be rooted in a more robust rights based and duty based approach if the experiences of service quality by socially excluded service users are to be improved. If there is no service or no right to a service then quality becomes meaningless. At a conceptual level this relates to the value placed on the rights, participation and roles of the most marginalised groups in our society and of the associated value accorded to the services that are developed to meet needs. What is ultimately required is a massive cultural shift away from what is convenient for the organisation to what is needed by the service users.

Dr Jane Pillinger
Independent Researcher and Policy Advisor,
Dublin
E-mail: janep@iol.ie

Further reading:

Barker J., Lynch K., Cantillon S. and Walsh J. (2004) Equality: From Theory to Action, Palgrave Macmillan: Basingstoke

Pillinger, J. (2001) The Quality of Social Public Services: European Synthesis Report, European Foundation: Dublin

Williams (2001) "In and Beyond New Labour: Towards a New Political Ethics of Care" in Critical Social Policy. 21 (4), no 69

Main report

The Future of the European Social Model – report on the conference of the ICSW's European Region, 1–3 June 2005, Lucerne

From 1 to 3 June 2005, the ICSW's European Region (*International Council on Social Welfare*) held in Lucerne on the future of the European Social Model (ESM). The event was hosted by the Swiss national committee of the ICSW, the Swiss Conference on Social Welfare (SKOS), which also celebrated its 100th anniversary at an official ceremony held as part of the conference.

Some 180 participants from nearly 30 countries were invited to take part in the conference – representatives of volunteer organisations and federations operating in the social area, politicians, persons working in public administrations concerned with social welfare issues, scientists and social workers. Plenary sessions and workshops offered a dense and highly varied programme where participants could discuss the present situation of the ESM and proposals for its future development.

Conference issues included the poor results of the mid-term review of the Lisbon Strategy, the new *Social Agenda*, and the prospect of the EU summit meeting scheduled for October 2005. The main question, however, was how the new social risks arising from demographic change, lasting high unemployment and ineffectual employment policies, cost pressures felt by provider organisations, globalisation and technological progress as well as from changed public attitudes to social needs and values in the EU Member States will affect the ESM.

The first part of the conference dealt with the core elements of the ESM. It has become difficult – particularly now that Europe has grown to include 25 members – to identify concrete elements and characteristics shared by all EU Member States that might help to define a uniform European Social Model from the point of view of an outsider looking in. In view of Europe's diversity, one could perhaps name values derived from

the Christian principles of solidarity and tolerance, democracy, human dignity, respect of human rights and the principle of subsidiarity in social affairs as common shared values for a "social Europe". However, it is difficult to propose a clear-cut, well-defined model expressing these values.

A more promising approach places European efforts to strengthen social cohesion, anti-discrimination and social participation of individuals in the context of other European policies, particularly economic and employment policies, an approach that describes the ESM as a set of instruments and measures used by the EU to create a framework for the *common shared values* and to develop a shared European social identity. Due to the EU's restricted competence in the area of social policy, legislative instruments play a lesser role in this case, and if they do, they find their primary expression in measures supporting other policies. Some important instruments in this context are the *Open Method of Coordination (OMC)*, communications, action programmes, the social dialogue and public appeals, all of which are based on the voluntary participation of those involved. The significance of the OMC was emphasised at the conference. Yet it remains to be seen whether it will be possible to reach an agreement on shared guidelines and objectives to adapt national policies, for instance in the areas of social integration, health and long-term care, and youth policies – in spite of the great differences between the social systems of the 25 Member States.

Within the scope of these open strategies, representatives of the civil society examined their possibilities for exerting an influence on the structuring of a social Europe. In this vein, they used the seven workshops in the second part of the conference to discuss the question of how European social policy could react to the effects of globalisation, to changes in population structure, migration and the changed needs of users of social services in order to implement social rights and justice, integration and social cohesion, and to efficiently structure cooperation between European, national and regional levels.

As a result of its deliberations, the conference formulated considerations and recommendations for the future of the European Social



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Plenary opening session – presentation of the working groups by the moderators: Uta Stitz, Werner Haug, Bruno Palier, Philip Rudge, John Halloran, Thea Meinema and Matti Mikkola (from left)

Model; these conclusions were then adopted by the European Region of the ICSW in July 2005 as the Council's official contribution to the current debate on the ESM. The list of recommendations includes several demands, e.g. the re-establishment of confidence in policies oriented towards social protection, more openness to good practice in other countries, consideration of competences at all levels, sustainable action, increased orientation of public financing strategies towards the support of human skills, innovation and prevention, concerted and responsible management of European migration policies, stronger institutionalisation of the principle of user participation, and observance of the subsidiarity principle. It is just as important to pursue modernisation not only from the point of view of costs, to encourage flexibility not for the best use of manpower but for the compatibility of family and career, and to promote the equality of underprivileged individuals and groups. *An Assembly on the Future*

of the European Society consisting of representatives of the Member States (governments, parliaments), of trade and industry and of civil society could encourage a general consultation process that would deal with the further development of the ESM on an ongoing and cross-border basis.

Altogether, the excellently organised and highly diversified conference was a good opportunity for discussing the complex issue of the future structure of European social policy in a broad circle of participants and under a variety of aspects, and for providing a strong impetus to involve civil society actors in this process.

Cornelia Markowski



Lucerne

The Services Directive and its effects on social services provided by local territorial authorities

Temperatures are rising. Within the scope of the co-decision procedure, the fate of the Commission's proposal for a Directive on services in the internal market is to be discussed in first reading at a session of the European Parliament in January 2006. At the moment, the Directive is still being discussed within the Parliament's leading Committee in this matter, the Committee on Internal Market and Consumer Protection.¹ In her report of 24 May 2005 on the draft Directive, the committee's rapporteur, German Social-Democrat MEP Evelyne Gebhardt (PES), had already demanded that major modifications be made.

She proposed that most services of general interest, particularly health and social services as well as other social and welfare services, should be excluded from the scope of the Directive and regulated in a specific Framework Directive. She would also like to see the country of origin principle – where service providers are subject only to the national provisions of their member state – replaced by the principle of mutual recognition as it has been developed in connection with the free movement of goods. The principle of mutual recognition stipulates that a service provider who legally offers services in one Member State must also be allowed to offer them without restrictions in all other Member States. He is not subject to the regulations of the country of destination whenever these regulations are duplications of conditions already satisfied in his country of origin. The problem is that service providers will face difficulties with regard to evaluating the equivalence of regulations. A significant difference between the country of origin principle and the principle of mutual recognition concerns the supervisory function. While the Commission's proposal makes the country of origin responsible for supervising service providers, even when they are of-

¹The results of this consultation, which is due to be voted on on 22 November, were not yet available when the present newsletter went to press. They will, however, be published on the European Parliament website at <http://www.europarl.eu.int>, and of course we will be reporting on them in the next issue of our newsletter.

fering their services in other Member States, the principle of mutual recognition assigns this responsibility to the host country, admittedly in close cooperation with the country of origin. In Evelyne Gebhardt's view, effective supervision would be achieved by having service providers register with a so-called "single point of contact" where all procedures and formalities could be dealt with. This single point of contact should be implemented both for freedom of establishment and freedom to provide services and ensure the implementation of the principle of mutual recognition. Exactly who the single point of contact should be is unclear, and no one knows whether such a system might not create a cost-intensive double structure. The German Association of Cities [Deutscher Städtetag] wants Member States to decide on who should be the single point of contact. They are asking federal and state authorities to establish the single point of contact at local level.

The rapporteur proposes a number of derogations from the principle of mutual recognition, primarily in the area of labour law. Moreover, under certain circumstances she believes that the country of destination should be allowed to object to the provision of certain services. Mutual recognition should be supplemented by a targeted harmonisation process, for instance with regard to commercial services in the health and social area. However, this proposal has met with opposition on the part of the municipal authorities, who feel that the health and social area should be excluded from the scope of application of the Directive, seeing no need for harmonisation and fearing that this could become a case of the EU encroaching upon their area of competence. It is indeed unclear how the additional coordination will affect the responsibility of Member States for structuring their social protection systems – and the same holds for a specific Framework Directive for the health and social area.

Much like the draft Directive itself, Evelyne Gebhardt's draft report is also controversial. More than 1,500 amendments have been proposed. Most of all, the proposal for scrapping the country of origin principle is being massively opposed by conservative and liberal voices in the Internal Market Committee. These committee members

have therefore also rejected compromise proposals made by the rapporteur. The most important compromise proposal involved the country of origin principle; it hoped to achieve a balance between opening up the market and safeguarding standards. According to this compromise, a distinction would have to be made – as has been done e.g. in the case of driving licenses – between *access* to a service activity, which should be assessed according to the laws of the country of origin, and *exercise* of the service activity, which should be judged according to the regulations of the host country.

A proposal made by conservative and liberal committee members and currently being debated would allow derogations from the country of origin principle only for services of *general economic interest* involving network-based supply. The option of an exception being made for *services of general interest* in the health and social area, by contrast, is mentioned only in the legally non-binding recitals. Concerning the scope of the Directive, services of general interest would be excluded only if they were not open to competition.

Whatever the final version of the Services Directive might look like, it is clear that there is still a considerable “translation” need for the benefit of the service providers themselves. Indeed, there is a great deal of uncertainty about the Directive among service providers. In order to gain a clearer impression of what municipal authorities see as the possible effects of the Services Directive in the version proposed by the Commission, the German Association of Cities has conducted a survey among its members.

The results of the survey reflect members’ basic fears that the EU could be extending the scope of its competence into areas of competence of municipal authorities.

Freedom to provide services

With regard to the freedom to provide services, an area where the country of origin principle applies, survey responders expect that cross-border nursing services will be in greater demand, particularly where there is a large gap in remuneration levels, for instance along the border between Germany and Poland or the Czech Republic. Other examples of cross-border services mentioned by

survey responders are medical and nursing services in hospitals, home nursing services, patient transport services, physiotherapy and ergo-therapy services, provision of care in old people’s homes, transport services for disabled persons, and sheltered housing.

Hospital federations have criticised the fact that service providers in the healing and health professions would be able to exercise their activities temporarily in other Member States. Admittedly, Article 17 no. 17 of the draft Directive would allow general derogations from the country of origin principle for the health area in cases where this is indispensable for the protection of public health – but according to the hospital federations, the conditions for forbidding the provision of a service offered by a foreign provider are not clearly defined. The federations specifically worry about the possibility of health risks and impairment of health protection. Pursuant to Art. 16 of the draft Directive an anaesthetist living near a border could offer his or her services on a freelance basis to a hospital in another Member State without the “host country” having supervisory powers. Health risks could also arise if physicians who lost their licence to practise at home were allowed to work freely in German hospitals because they are not subject to registration. Further risks are feared in terms of the professional skills of nursing personnel from other Member States: in contrast to some other EU countries, for instance, nurses in Germany are not allowed to give intravenous injections or to make injections into the spinal cord.

There are also worries about services that might be provided abroad and “introduced into Germany”. For instance, the services of a foreign laboratory could be used, giving rise to problems in terms of the implementation of German standards of safety.

Freedom of establishment

As examples of cross-border establishments psychiatric services, old-age and nursing homes, hospitals, hospitals rented by foreign providers and child day-care centres were named.

With regard to the health area, survey responders feel that German hospital planning restricts freedom of establishment, because only hospitals accepted into the hospital plan receive state funding and payments from health insur-

ance funds or companies. There are fears that a conflict could develop with the currently practised process of hospital planning and funding, even though Art. 9 para. 1 of the draft Directive states that the need for authorisation could be justified, among other reasons, by an “overriding reason relating to the public interest”. Other licensing obligations in the social and health area, for instance licences for child day-care centres or kindergartens provided by not for profit welfare organisations or companies, licences for private hospitals, licences for nonmedical practitioners and operating permits for pharmacies could create similar problems.

Overall, the survey has illustrated one of the weaknesses of the draft: the lack of adequate definition for the concepts used. It is not surprising, then, that the draft is interpreted differently by service providers who are not quite familiar with the language of the EU. For instance, the term “public health” used in the exemption of Art. 17 no. 17 does not refer to the optimisation of the health of individual patients, i.e. individual medicine, but to the improvement of the health of the overall population, the prevention and control of widely spread serious diseases and epidemics, and the eradication of the causes of risks to human health. Uncertainties have also come to light with regard to the distinction between freedom to provide services and the free movement of goods – where an extensive harmonisation of regulations has already taken place – in situations where, for instance, a medical product is manufactured by a service provider from another Member State in his country of origin and then sold in Germany. It has also become obvious that the distinction between freedom to provide services, which presupposes an *autonomous, self-employed* activity, and freedom of movement for workers, which covers *dependent* employment pursuant to the regulations of the country of employment – also with regard to professional qualifications – is not always clear.

Anna Englaender
Sabine Drees
Consultant at the German Association of Cities [Deutscher Städtetag]
E-mail: sabine.drees@staedtetag.de

Conference on “The Future of the European Social Model: a German Perspective”

On November, 3rd and 4th 2005, the Observatory and the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth hosted a conference in Berlin on “The Future of the European Social Model: a German Perspective”. Some 150 representatives from political (national governments, state governments, local authorities) and academic life as well as from various welfare associations and civil society organisations in Germany and other European countries took part in the event. The conference focused on legislation and legal framework conditions at EU level, instruments for shaping and drafting policy, and policy coordination in the fields of “social inclusion”, “economic, social and territorial cohesion”, and “demographic change”.

A document reviewing the main lines of discussion and the central positions of the working groups and reflecting the recommendations of the participants is expected to be published by mid-December. A documentation of the conference will be available next year. Finally, a summary of the conference will be published in the next issue of our newsletter.

The EU’s Services Directive – problems, parliamentary discussion, positions

In her report of June 2005 to the coordination group of the Observatory, Anna Englaender analyses the possible effects, particularly on health and social services, of the draft Directive on services in the internal market proposed by the European Commission. She also looks at the reports of the parliamentary committees responsible for the Directive within the scope of the co-decision process, and positions from some Member States.

The document can be found on the project website at <http://www.soziale-dienste-europa.de/Anlage25570/dienstleistungsrichtlinie.pdf>.



Members of the panel at the plenary opening session: Marie-Josée Jacobs, Minister for Family, Integration and Equal Opportunities, Luxembourg; Christoph Linzbach, Coordinator for European Affairs, German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth; Sir Peter Torry, Ambassador of the United Kingdom of Great Britain and Northern Ireland to Germany; Prof. Dr. Jens Alber, Director of the Research Unit "Inequality and Social Inclusion" at the Berlin Social Science Research Centre (WZB); Peter Ruhenstroth-Bauer, State Secretary, German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (from left)

Our staff

There have been a few changes at the office of the Coordination Group at the German Association for Public and Private Welfare (Berlin).

Ms. **Hanna Steidle**, who until recently had been a student assistant there, has now been employed as a scientific officer since 1 July.

In addition to her work for the Coordination Group, she is also in charge of individual projects, including a project on the modernisation of social protection.

Contact:
Michaelkirchstr. 17/18
D – 10179 Berlin
Phone: +49 30/62980-3 19
Fax: + 49 30/62980-351
E-mail: h.steidle@deutscher-verein.de

The new student assistant is **Thomas Schmid**.



Mr. Schmid is studying sociology, economics and psychology at the Freie Universität Berlin. His work focuses on the sociology of work and business. After spending some time studying at the École Normale Supérieure Cachan (France), he is now working on a diploma thesis on the varieties of capitalism approach and social inequality.

Contact:
Michaelkirchstr. 17/18
D – 10179 Berlin
Phone: + 49 30/62980-3 18
Fax: + 49 30/62980-351
E-mail: t.schmid@deutscher-verein.de/

D a t e s

January

12–14/Stockholm, Sweden:
NYRIS 9: Landscapes of Youth. The 9th Nordic Youth Research Information Symposium.
Information:
E-mail: fredrik.stiernstedt@sh.se
<http://www.sh.se/nyris9>

27–28/Munich, Germany:
“The Transnationalisation of Social Inequality”. Conference of the section for “social inequality and social structure analysis” in the German Sociological Association.
Information:
Phone +49-89-6004-3138
E-mail: anja.weiss@unibw-muenchen.de
<http://www.soziologie.de/termine/index.htm>

March

16–17/Fribourg, Switzerland:
“Nonprofit-organisations and markets – how much market do the NPOs need, how do they survive under market conditions and how much market can they cope with?” 7th International Colloquium of NPO-Researchers.
Information:
E-mail: colloquium@vmi.ch
<http://www.vmi.ch/de/index.php?idnav=145>

27–29/Oxford, Great Britain:
New Directions in Social Care: Meeting the Challenge of Change. Social Services Research Group 2006 Annual Workshop.
Information:
E-mail: dhender421@aol.com
<http://www.swap.ac.uk/events/events.asp>

May

19–20/Bielefeld, Germany:
Conference on “Health Inequalities”. Current state of research on the effects of social inequality on health and care, areas of action and prospects.
Information:
E-mail: matthias.richter@uni-bielefeld.de
<http://www.soziologie.de/termine/index.htm>

June

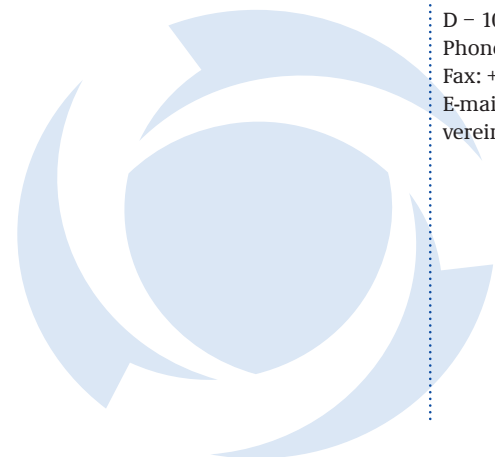
19–21/Vienna, Austria:
14th European Social Services Conference, “Young and Old in a Changing Europe: the Challenges of Demographic Change to Social Care and Health”.
Information:
European Social Network
Phone +44-1273-549817
E-mail: sarah.wellburn@socialeurope.com
http://www.socialeurope.com/pdfs/Vienna/en_possible_workshop_themes.doc

July

23–29/Durban, South Africa:
Opportunities and Challenges for Comparative Welfare State Research. ISA World Congress of Sociology, RC 19.
Information:
E-mail: sociology2006@ukzn.ac.za
<http://www.sociology2006.org.za>

30 July–3 Aug./Munich, Germany:

World Conference of the International Federation of Social Workers (IFSW) “A world out of balance. Working for a new social equilibrium”.
Information:
E-mail: info@socialwork2006.de
<http://www.consozial.de/>



Current events

Publications

The first new publications we would like to mention deal with the "European Social Model" (ESM), too.

In his working paper on "**Europäisches Sozialmodell und Sozialer Zusammenhalt: Welche Rolle spielt die EU?**" [The European Social Model and social cohesion: what is the role of the EU?], Lothar Witte explores the relationship between economic, employment, education and social policies in the EU. The paper was published in December 2004 by the Friedrich Ebert Foundation; it is available (in German) at <http://library.fes.de/pdf-files/id/02602.pdf>. In 2005, the Friedrich Ebert Foundation also published a discussion paper on "**Das Europäische Sozialmodell im 21. Jahrhundert**" [The European Social Model in the 21st century]. This document, which contains articles on topics such as the concept of lifelong learning, the development of the services sector in Germany, and the social dialogue in Europe, can be read or downloaded at <http://library.fes.de/pdf-files/asfo/02931.pdf>. In his book "**Politics and Policies of the Social in the European Union: Looking at the Hidden Agendas**", Peter Herrmann looks beyond the European Social Model. He discusses the values and attitudes that form the basis of the ESM, social services and their providers in Europe, and aspects of social policy and empowerment. The book will be available by the end of 2005 from Nova Science Publishers in New York.

Members of the Observatory staff have published the following articles on topics of interest to the Observatory:

In an article entitled "**Die EU-Dienstleistungsrichtlinie – nun ist das Parlament am Zug!**" [The EU Services Directive – now it's up to Parliament], Anna Englaender reviews the Commission's proposal for a Services Directive and the reports of the Internal Market and Social Protection Committee on the subject. This paper was published in the 5/2005 issue of the journal "Theorie und Praxis der Sozialen Arbeit". Meanwhile, Mathias Maucher's report for the third workshop of the "Third Sector European Policy Network" is also available. The paper, which is

entitled "**The involvement of German third sector organisations in processes of decision-making with a European dimension**", can be found at <http://www.lse.ac.uk/collections/TSEP/publicdocfind.htm>.

In addition to the comprehensive analysis of the answers given by the governments of all EU member states to the questionnaire of the Social Protection Committee in order to prepare the Communication on Social and Health Services of General Interest (cf. <http://www.soziale-dienste-in-europa.de/Anlage25573/auswertung-antworten-ms-mitteilung-sgdai-ed.pdf>), a summary presentation of the analysis (in German language) is published as **guest column** in edition 3/2005 of "Parität EU-Report" (p. 14–23), which also has been made available as pdf-file, cf. <http://www.eu.paritaet.org/>, menu item "Publikationen", than "Parität EU-Report", finally "Parität EU-Report 3/2005".

We also want to mention Hanna Steidle's final thesis, where she examines the structures and strategies of the "**federal associations of non-statutory welfare organisations as a lobbying force at European level**". The thesis, which was presented in February, is available directly from the author, who can be contacted at h.steidle@deutscher-verein.de.

News Update

State aid package

On 15 July 2005, the European Commission adopted a package of measures to define and regulate State aid for service of general interest (the so-called "Monti package"). It consists of three parts: a Commission decision, a "Community Framework for State Aid in the Form of Public Service Compensation", and an amendment to the Commission Directive on the transparency of financial relations between Member States and public undertakings.

The Monti package considers State aid for hospitals, social housing and certain transport services as basically compatible with EU competition rules. Furthermore, State aid up to 30 million euros for undertakings with a turnover of less than 100 million euros per year will not be subject to notification to the EU Commission.

For further information:

http://europa.eu.int/comm/competition/state_aid/others/action_plan

The Services Directive

The Internal Market and Consumer Protection Committee vote on the draft report of rapporteur Evelyne Gebhardt, which had originally been planned for 4/5 October 2005, has been postponed to 22 November 2005 as a result of last-minute amendment proposals made by the conservative and liberal members of the committee. The main points of disagreement concern the scope of the Directive and the country of origin principle. The first parliamentary reading is now not expected to take place until the week of 16–19 January 2006.

Communication on social and health services of general interest

The Communication from the EU Commission on social and health services of general interest, which had been announced for summer and then postponed to autumn 2005 (cf. the first Main Report of our Newsletter 1/2005), has not yet been presented. It had been expected that this document would be adopted by the team of EU commissioners before the informal summit of heads of state and government under the British presidency at Hampton Court at the end of October, but this has not been done yet. When this newsletter went to press (mid-November), it was assumed that the Communication would be published either at the end of November 2005 or not until January (even February) 2006.

Another information hints to April 2006 as latest date when the Austrian presidency of the European Union will organise a European summit. This "time schedule" seems not least to be attributable to the close interrelation – as to certain topics and regulations – with the currently debated Directive on services in the internal market where the first reading will take place at a session of the European Parliament in January 2006 (cf. also the second main report in this Newsletter).



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in Europe**

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Zeilweg 42
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Editor:

Kathrin Komp
E-mail: kathrin.komp@iss-ffm.de

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Agencies responsible for the Observatory are:

Institute for Social Work and Social Education
Monitoring Unit
Zeilweg 42
D-60439 Frankfurt a. M.
Phone: +49-69-957 89-0
Fax: +49-69-957 89-190
E-mail: info@iss-ffm.de
Homepage: www.iss-ffm.de

German Association of Public and Private Welfare
Office of the Co-ordination Group
Michaelkirchstr. 17/18
D-10179 Berlin
Phone: +49-30-6298-0
Fax: +49-30-6298-0351
E-mail: kontakt@deutscher-verein.de
Homepage: www.deutscher-verein.de

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