



MAX-PLANCK-GESELLSCHAFT

Report 2001-2003

Max Planck Institute
for Foreign and
International Social Law

Amalienstraße 33

Preface

This report furnishes information on the Max Planck Institute for Foreign and International Social Law and its activities from 2001 to 2003.

The somewhat unusual reporting period had to be chosen in order to fall in with the last report for 1999/2000, but also to be able to present an up-to-date overview for the pending rota of the Advisory Board meeting. In future, reporting will be resumed on a two-year basis.

The past few years have found the Institute in a transitional situation – owing to the change of directorship, precisely at “half-time” of the reporting period, and extensive

modifications to the staff body. In the course of 2003, the establishment of new sections was begun; though fundamentally remaining on a country-specific basis, they are to be reorganized according to reform processes and aligned with specific projects in future. These reconfiguration activities are therefore still underway. That is also why the following report is largely structured along the same lines as its predecessors, the framework of which has been adopted for both ongoing and newly launched projects.

Munich, in January 2004

Ulrich Becker

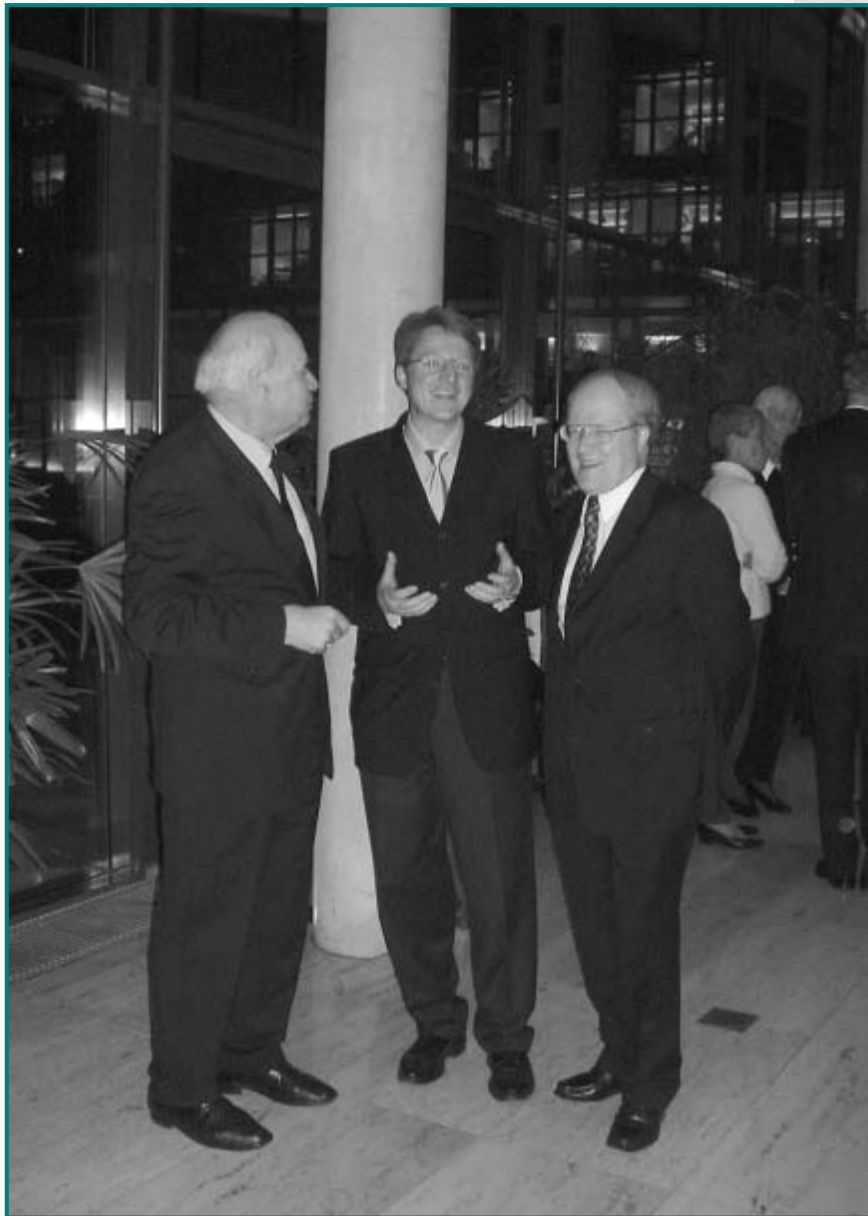


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I. Introduction



I. Introduction

1. Task, History and Structure of the Institute

a) According to its statute, the Institute is devoted to research in the field of foreign and international social law.

Following a suggestion made in 1972 by the former president of the German Federal Social Court, Prof. Dr. *Georg Wannagat*, to establish a Max Planck Institute for international social law, the Max Planck Society decided two years later to launch a project group for international and comparative social law in Munich. This project group commenced its activities in 1976 under the leadership of Prof. Dr. Dr. h.c. mult. *Hans F. Zacher*. To begin with, it employed a staff of five, later six researchers. Ahead of schedule, that is prior to the end of the originally planned term, the group's conversion into the Max Planck Institute for Foreign and International Social Law was resolved and subsequently carried through in 1980.

From 1 January 1980, the Institute was under the direction of its founder, *Hans F. Zacher*, who in 1990 assumed the office of President of the Max Planck Society while continuing his directorship on a temporary basis. He was succeeded as Institute director on 1 February 1992 by Prof. Dr. *Bernd Baron von Maydell*. After the latter acquired emeritus status on 31 July 2002, the direction passed on to Prof. Dr. *Ulrich Becker*, LL.M., who took full-time office as Scientific Member and Managing Director as from 1 September 2002.

b) The Institute currently comprises one department. Following the termination of the Independent Junior Research Group (cf. I. 2. below), it no longer disposes of an organizational subdivision. The Institute's research staff engage in the observation and analysis of social law and social policy developments in various European and non-European countries. The country-specific structuring of this work is supplemented by subject-related competences and responsibilities for the observation of international organizations. This structure is basically to be upheld in the coming years, given that law continues to bear nation-state features. Country-specific

ic societal, economic and cultural settings therefore play an essential role in legal understanding, and it is in this sense that the expertise acquired by members of the Institute in the course of their longstanding activities can be put to productive use. Nevertheless, in filling new positions – given that only fixed-term posts are available – importance is above all attached to the fact that the social law of researched countries should, if possible, be of significance to ongoing reform processes. Beyond this, the country-specific structuring of research has forfeited some of its relevance owing to the process of Europeanization and internationalization – albeit on a much smaller scale than in legal fields that are more strongly impacted by unitarization tendencies than social law. Finally, knowledge about foreign law is naturally augmented in that researchers from abroad participate in individual projects or in that projects are conducted exclusively with foreign collaborators.

2. Staff Changes

The first substantial alteration in the period under review was the change in the Institute's directorship. Especially in an institute that consists of a single department, such a change will prompt a series of alterations whose implementation demands a certain measure of time and energy.

Numerous personnel changes also occurred among the research staff. Dr. *Andreas Hänlein* and Dr. *Angelika Nußberger*, who in previous years had completed their habilitation theses, both accepted appointments to chairs at German universities. Thus Dr. *Hänlein* has held the chair for economic, labour and social law at the University of Kassel since winter term 2002/2003, and Dr. *Nußberger* has been director of the Institut für Ostrecht (Institute for Eastern Law) at the University of Cologne since December 2002. The activities of the Junior Research Group (cf. II. 3. below) were ended with equal success when its head, Prof. Dr. *Yves Jorens*, was appointed professor for social law and European labour and social law at the University of Ghent (Belgium) on 1 October 2001. Dr. *Alexander Graser*, LL.M., was honoured with the Bavarian Habilitation Promotion Prize in 2003, and has been granted leave since 1 October 2003 to write

his postdoctoral thesis. Dr. *Hans-Joachim Reinhard* was appointed professor at the Fachhochschule (University of Applied Sciences) in Fulda in 2003, and has since been active at the Institute on a part-time basis. New members of the research staff are: Dr. *Barbara Darimont* (since 1/10/2002), *George Mpedi*, LL.M. (since 1/8/2003), Dr. *Christina Walser* (since 1/10/2003), and assessor *Friso Ross* (since 1/12/2003). An additional position for the task of establishing a well-functioning Internet portal and extending the correspondence network has been filled by *Carlos Cota* (since 1/9/2002).

Since summer 2002 and autumn 2003 respectively, the Institute has engaged four doctoral candidates (*Ariane Wiedmann*, *Monika Goller*, *Claudia Matthäus* and *Martin Landauer*). Ms. *Goller* is currently with the German Federal Ministry for Health and Social Security under a Volkswagen Foundation programme. The number of doctorands is to be increased in 2004 to investigate social security reform processes through a variety of dissertation projects.

3. Main Areas of Research at the Institute

a) As in the previous reporting period, a main research area in the years 2000 to 2003 was devoted to the academic accompaniment of the European integration process (cf. II. 1. a. below). This process is of mounting significance especially to the sphere of social protection. The modernization of co-ordination Regulations continues to represent an important aspect in this connection – namely in the light of extended personal mobility within the European Union, but also with a view to the EU's enlargement to the east and initial steps towards a European immigration policy, parts of which have meanwhile been implemented. In a much more far-reaching manner, European integration also impacts basic issues relating to the design and organization of social benefit systems. With increasing progress made in the completion of the internal market and monetary union, and with the European Union's pursuit of integrative strategies and its endeavour to create a new and more comprehensive base for the integration process by way of a constitutional treaty, the ever more pressing question is how the member states can maintain their responsi-

bility for social security and what competences are to be shifted to the European level in future. While it is agreed, in principle, that a harmonization of national benefit schemes should not be striven for, these are nonetheless coming under pressure owing to the aforesaid developments. Points of contact, if not to say conflicts, with European economic law are becoming more pronounced, and interpenetration between different regulatory levels raises new problems of adjustment and questions the legitimization of respective actions.

b) On an international level, the above-outlined processes of interpenetration among different levels of legal regimes remain less marked because public international law scarcely contains social law norms that have direct effect and decisively impact the constitutive powers of states. Hence, this area of law is characterized by restraint in matters concerning state responsibility for social policy. Even so, influences of international law on social security are discernible. Moreover, it will be necessary to ask in future how social protection can be reconciled at international level with the exchange of goods, services and capital, as well as migration. As such, the theme of internationalization occupied an important space in the research activities of the Institute, and will continue to do so (II. 1. b. and II. 2. g. below).

c) Despite Europeanization and internationalization, internal factors constitute the primary triggers for reform procedures in the different states. Economic and societal changes in transitional societies (cf. II. 1. c. below) come to bear here in the same manner as in developed states – while demographic trends (II. 1. d. below) and changes in social structures (II. 2. d. and e. below), but also efforts towards labour market flexibilization, tend to be in the focus there (II. 1. e. below).

Precisely because the gaining of new insights through legal comparison requires a detailed examination that also takes account of non-legal criteria, a feasible approach for investigating diverse national developments seems to be to create an institutional framework based on longer-term collaboration. That occurred in the period under review, above all in the relations with Turkey, where



the construction of comprehensive protection schemes was in the foreground (II. 2. c. below), as well as in the relations with Japan, because both Japan and Germany – each undergoing comparable societal change processes – are intensely engaged in the reform of their social security systems (II. 2. a. and b. below). Of course, longer-term grants and the accommodation of guest scholars for prolonged research stays will be of great significance to the building of extensive co-operation ties. Furthermore, the Institute closely collaborates with researchers abroad through its correspondence network (cf. also 4. a. below).

d) Aside from the main areas of emphasis thus outlined, the Institute also dealt with such highly topical subjects as the participation of persons with disabilities in society (cf. II. 2. a. and f. below). The background here is the endeavour to make productive use of the know-how acquired by the Institute in basic research and methodology for problems that are also discussed in public – or, depending on the design of the project, to take topicality merely as an opportunity for gaining more extensive insights. Furthermore, the Institute, in view of its primary focus on legal comparison, sees its task in the academic accompaniment of social law developments in Germany (cf. II. 1. f. below). That aspect carries particular weight, not least because social law is represented at German universities to a much lesser degree than, say, public international and European law, or labour and private international law.

4. Other Activities and Tasks of the Institute

a) The Institute disposes of a specialized library, meanwhile comprising over 77,000 volumes (for more details, cf. VII. 2. below). The books and journals primarily cover the social legislation of international organizations, the European Union, Germany, and selected European and non-European states, encompassing social policy, social science and economic works as well as the basics of legal history and legal philosophy, and general depictions of constitutional, administrative, civil and labour law. Additional information can be accessed via databases and Internet publications.

The Institute thus furnishes possibilities for conducting social law and social policy research work in such a way as is scarcely encountered anywhere else inside and outside of Germany. And so, in the period under review, the Institute remained an attractive venue for German and foreign guest scholars – supported in part by the Institute, in part by other institutions – who stayed for differing lengths of time to carry out their investigations (cf. VI. below).

Sponsoring guest stays, similar to the organization of workshops and conferences, contributes to both international and interdisciplinary exchange. It is also in this sense that the Institute constitutes a meeting place – which is important not least because, owing to its size, it cannot survey all social law regimes worldwide on an equal scale. The Institute therefore relies on its collaboration with foreign research partners, which is to be expanded in future by way of a more closely knit correspondence network that will enable reform processes in different regions to be assessed more precisely.

b) As a publicly funded establishment, the Institute considers it an additional task to place its basic research findings at the disposal of other institutions and to report these to the general public. Hence, the improved presentation of activities and results was one of the reasons for a fundamental reconfiguration of the Institute's Internet website in 2003 (cf. VII. 3. below).

In the process, the Institute strives to convey information on German, European and international social law at home and abroad, above all by participating in a wide variety of conferences and workshops. To this end, it very specifically seeks exchanges with practitioners from ministries, associations and social benefit institutions, as well as with politicians. It thereby not only acts in an advisory capacity, but enables its staff to take practical problems as an opportunity for more extensive investigation and for the verification of theoretical assumptions.

Like most of the juridical Max Planck Institutes, the Institute also prepares expert opinions on foreign social law issues on behalf of courts (cf. VIII. 2. below). This function is nevertheless of secondary importance, on

the one hand because the demand is limited owing to the obviously small number of cases; on the other, because the Institute is not in a position, or even disposed, to provide worldwide coverage of all individual social law problems.

c) Last but not least, the legal education and promotion of junior scholars occupies a special place in the work of the Institute.

As the other Institute directors before him, the current director is active as a university lecturer and in this way simultaneously establishes a link to the Faculty of Law of the Ludwig-Maximilians-Universität (LMU) in Munich, with this exchange facilitated by the Institute's close proximity to the university. Social law as a subject of university education in Munich has been borne exclusively by the Institute for quite some time now. Members of the Institute (*v. Maydell, Hänlein, Becker*) and temporary lecturers affiliated with the Institute (*Kruse, Adolf*) conduct all social law courses; the relevant oral exams under the First State Law Examination are held by the Institute director. In-

deed it would be desirable to place this cooperation on a broader footing by establishing a position that centres on social law at the LMU Faculty of Law. Budgetary constraints, however, make this prospect appear quite unlikely, so that the Institute will continue to bear a special responsibility for sustaining social law teaching in future. To what extent this collaboration could be intensified by introducing so-called "focal courses" under the forthcoming educational reform remains to be seen.

A number of additional lecture activities are conducted abroad: regular courses at the University of Strasbourg (*Kaufmann*); guest lectures at various universities (*v. Maydell, Becker*); and lectures under the "European Master in Social Security" programme at the Katholieke Universiteit Leuven (*Becker*). In future, the Institute will take active part in a DAAD-supported exchange project between the University of Frankfurt/Main and the Rand Afrikaans University of Johannesburg, as well as in the SOCRATES exchange between the Munich LMU and the University of Athens.



II. Research



1. Main Subjects

a) Europeanization

The progressive Europeanization of social law is one of the main subjects of the Institute's research activities. Of particular significance here is how the instrument of EC coordination law can be implemented and how the Community, which was initially geared to economic integration, will now be able to prove itself in the new interplay between the internal market and social security. The latter is also underscored by the discussion over fundamental social rights. Apart from this, the new approach of the Open Method of Coordination and the impending enlargement of the European Union were equally important themes.

EC Coordination Law

European coordination law – now laid down under Regulations (EEC) Nos. 1408/71 and 574/72 – has always been a main subject of the Institute's work, which is reflected in its regular reporting on judgments delivered by the European Court of Justice (ECJ) on social policy issues and in investigations on the social security of migrant workers.

Early on in the 1990s, the Institute, in collaboration with the German Federal Ministry for Labour and Social Affairs, organized a series of events that also sought to objectify the harsh criticism that was then being launched against European Court rulings on issues concerning the European coordination of social policy. At the end of the 1990s, a part of the European Commission's efforts to simplify and modernize the relevant legal instruments of Community law consisted in organizing national seminars on the implementation of EC coordination law in all of the 15 member states.

The previous years' revisions to Regulations (EEC) Nos. 1408/71 and 574/72 on the social security of migrant workers related to their territorial, personal and material scope of application. In territorial terms, the Regulations apply not only to the 15 EU member states, but also to the additional states of the European Economic Area (Iceland, Liechtenstein, Norway), and to Switzerland under the so-called sectoral agreements. Moreover, as

from 1 May 2004, its purview will also extend to the 10 accession states of the European Union (cf. section on EU enlargement below). The extension of personal scope does not only entail consequences for the frontier workers' issue, which was investigated at a conference organized by the German Federal Ministry for Labour and Social Affairs as well as at a comparative law symposium in Ghent (*Jorens, Schulte*). Beyond this, also members of third countries who legally reside in an EU member state are covered by the personal scope of the EEC Regulations, meaning that Turkish workers residing in Germany, for example, who then migrate to France are able to assert their social insurance claims there in the same way as domestic workers. This novelty has been the subject of numerous exposés conducted by the Institute's staff (*Schulte, von Maydell, Jorens*) and was discussed in detail at the 8th Conference of Ministers for Social Affairs in Bratislava (*Schulte*). Contrary to territorial and personal fields of application, revisions to material applicability are accompanied by greater difficulties. The core problem here is that newly introduced social benefits, such as long-term social care insurance in Flanders, Luxembourg and Austria, or the so-called "Riester Pension" in Germany, must be brought into line with Regulation 1408/71, with the principle of unanimity impeding the coordination of such new developments in the member states. Worthy of note in this context is the case law on the material scope of application. Thus the ECJ detailed the concept of family benefits under EC coordination law in a number of its judgments, which were discussed in the period under review (*Hohnerlein*).

As to concrete considerations on how to further develop Community social law coordination, it is widely agreed – despite all criticism of individual aspects – that this instrument has essentially proven successful. This is also one result obtained by the "European Observatory for the Social Security of Migrant Workers in the European Union", operated on behalf of the European Commission by staff members of the Institute (*Jorens, Schulte*). It is entrusted with the task of informing the offices of the European Commission on the implementation of Regulations (EEC) Nos. 1408/71 and 574/72 in the 15 member states. Based on national re-

ports from all of the 15 member states, a respective assessment is summarized in a European Report and accompanied by proposals for improving coordination.

In November 2003, the Council took an important step in the direction of a more efficient social security coordination system by attaining fundamental political agreement on a simplified and modernized Regulation amendment. Not only was the wording tightened by reducing the volume of the former Regulation texts, making them easier to handle, the Regulations were also better adapted to contemporary developments in the member states' social security systems. By participating in working groups initiated by the European Commission and in expert symposiums, as well as – most recently, in April 2003 – in a hearing by the European Parliamentary Committee for Employment and Social Affairs, staff of the Institute have taken an active part in this reform process (*Jorens, Schulte*). Likewise, the operation of the aforementioned Observatory for the Social Security of Migrant Workers by members of the Institute has contributed to these reforms by highlighting the differing modes of implementation, application and interpretation of Regulations (EEC) 1408/71 and 574/72 by the various member states.

The Internal Market and Social Security

In the past five decades since the founding of the European Economic Community, European social policy has developed from purely flanking measures of a Common Market to a central European policy area bearing substantial potential for conflicts.

While in the Community's early phase, social security was conceived only as an annex (Regulations on coordination; equal pay for men and women), with other forms of harmonization finding little or no regard, a new era commenced with the Paris Summit of 1972, in the course of which the heads of state or government entrusted the EC Commission with the task of drafting the first social policy Action Programme of the European Economic Community. European social policy was given further depth in 1989, when the – legally non-binding – Community Charter of the Fundamental Social Rights of Workers was proclaimed as a social policy

response to the programme on the establishment of the Internal Market. While the Charter was still closely bound to the definition of workers' mobility, the Treaty of Amsterdam marked the beginning of a third phase of European social policy that was to herald the creation of a European social community no longer subordinated to the goals of the economic community.

Ever since, assessing the new quality of European social policy from a legal perspective has been a concern of the Institute. Its attention thereby centres on the debate over the concurrence of the internal market and European economic law, on the one hand, and nationally structured social state regimes, on the other, which also in future will primarily remain a national responsibility. Thus recent years have witnessed mounting tensions between the conception of social security and the economic fundamental freedoms reflected in Common Market principles (mobility of goods, capital and persons; competition). The result is that members states' nationally conceived social state principles are increasingly subjected to Europeanization.

Academic debate in Germany was especially heated over developments in health insurance law (*Becker, von Maydell, Schulte, Hänlein*). Since 1998, beginning with the judgments in the *Decker* and *Kohll* Cases, and most recently in May 2003 in the Case *Müller-Fauré/van Riet*, the ECJ by invoking the fundamental freedoms under Community law has paved the way for the cross-border receipt of health benefits within the European Union. With new challenges facing EC legislation in the light of ECJ case law, the comparative legal perspective was analyzed in a conference held under the auspices of Belgium, Netherlands and Germany, with the aim of depicting the consequences for the further development of national health care systems (*Jorens/Schulte, Grenzüberschreitende Inanspruchnahme von Gesundheitsleistungen im Gemeinsamen Markt* [Cross-Frontier Recourse to Health Care Benefits in the Common Market], 2003). Germany's new Health Care Modernization Act, which regulates insured persons' entitlement to benefits in other members states of the EU and the EEA, permits cross-frontier Internet trade with medicines and



allows national health insurance funds to conclude contractual agreements with other EEA benefit providers, was thus also the response to the pertinent case law of the ECJ, as well as to these issues' discussion in academic circles, in which members of the Institute participated extensively.

Fundamental Social Rights and Constitutional Development

The "Charter of fundamental rights of the European Union", as yet still of a legally non-binding nature, does not only stipulate core human rights such as equality between men and women or non-discrimination (ethnic origin, disability, age etc.), set forth in Chapter III "Equality", but in Chapter IV "Solidarity" goes on to expressly define fundamental social rights such as the rights to social security and social assistance, to health care and to access to services of general interest. The adoption of this non-binding Charter was preceded by a series of discussions that dealt with the pros and cons of incorporating such fundamental social rights, as well as with the question of how to do so. In collaboration with the former Federal Ministry for Labour and Social Affairs, the Institute organized a conference on this subject matter and subsequently published the results (BMA/MPI, *Soziale Grundrechte in der Europäischen Union* [Fundamental Social Rights in the European Union], 2001).

According to the vision of the Constitutional Convention, the fundamental rights charter is to become a constituent part of the European Constitution. Against this backdrop, the significance of the so-called European Social Model has acquired a new legal dimension, since it is given more concrete and precise substance – both legally through the European fundamental social rights and politically through the "Open Method of Coordination". According to the European Commission, this model comprises the policy areas of general and vocational education/training, employment, health protection, social welfare and social protection, health and safety at the workplace, and social dialogue. It finds expression in the social welfare systems, the social services and collective agreements. At the same time, the manner in which the Social Model is conceived and put into practice by

the member states of the European Union varies more or less widely.

The role of law in this process formed the subject matter of several interdisciplinary conferences attended by members of the Institute (*Becker, Schulte*). Legal experts were thereby questioned by historians, political scientists and sociologists as to what legal objectives are suitable for forming and subsequently steering the – in the understanding of the latter, culturally embedded and historically developed – European Social Model in a certain direction.

Open Method of Coordination

The most important recent developments include the introduction of the so-called Open Method of Coordination, which has already been implemented as a new policy strategy in the sphere of social exclusion (combating poverty), and is now to be launched in the field of old-age protection. While respecting the principle of subsidiarity, this new strategy seeks to achieve voluntary interaction among the member states with the support of the European Commission. It is to be extended: in due course, health care and the long-term care needs of older persons, as well as the integration of migrants, modelled on European employment policy, are to be organized jointly by the member states in such a way as to adopt common objectives at European level, to implement these at national level using specific indicators set forth in national reports and, if appropriate, to initiate a process of mutual learning in the form of benchmarking.

The limits and possibilities of the Open Method were the subject matter of conferences that were jointly organized by the VDR (Association of German Pension Institutions), the competent federal ministry and the Institute, and are still in progress. Results on sub-areas are now available in published form (VDR/BMA/MPI, *Offene Koordinierung der Alterssicherung in der Europäischen Union* [Open Coordination of Old-Age Protection in the European Union], 2002; VDR/BMA/MPI, *Offene Methode der Koordinierung im Bereich der Alterssicherung – Quo vadis?* [Open Method of Coordination in the Field of Old-Age Protection – Quo vadis?], 2003).

EU Enlargement

The accession states are experiencing the growing importance of the Community law *acquis communautaire* – the body of Community legislation that also reflects the EU's social dimension. This also has repercussions on the member states, whose social policies must comply more extensively with Community provisions. Consequently, there is a rising demand for investigations into the compatibility of social legislation, notably contemporary reform legislation, with European Community law.

On behalf of the European Commission ("Consensus I" and "Consensus II") as well as German ministries and organizations, including the Gesellschaft für Versicherungswissenschaft und -gestaltung e.V. (GVG), staff members of the Institute held lectures on relevant subjects and engaged in advisory activities in the accession and transition states. Furthermore, the Institute collaborated with the ifo Institute for Economic Research on the sub-issue of labour force emigration (EU-Erweiterung und Arbeitskräfteemigration [EU Enlargement and Labour Force Emigration], 2001).

Aside from this, relations with Turkey are gaining more and more importance in the light of debate on its accession. The consequences of association legislation in the field of social security have thus become a subject of research, given that the prohibition of discrimination set forth therein demands that the social law positions of Turkish migrants must not be made to depend on additional legal provisions governing residence, but can only ensue from the definition of workers as set out under European social law. This social law improvement is a consequence of the most recent judgments passed by the ECJ on the direct application of Association Decision No. 3/80.

b) Internationalization

The globalization of capital markets, the increasing mobility of goods, services and persons, as well as the concomitant end of the era of national economies basically limited to one state territory, are not the only consequences of the transnationalization and internationalization of living circumstances,

but no doubt the most striking ones. These phenomena impact traditional nationally structured, and thus restricted, social systems, whose legal rules, social transfers and publicly offered goods constitute the state-imposed regulatory framework governing worldwide competition for the most favourable locations. At the same time, every social security system, as a measure of solidarity and reciprocity inherent to the respective population, forms a central point of reference for the given polity's social identity.

The way in which states with differing social security systems react to these and other challenges was already one aspect of the Institute's research project on the subject of the "the core area of the social state" that sought to determine which elements of social protection tend to be preserved, amid all change, and which are the preferred areas for undertaking modifications. In the process, three basic functions of social state action were differentiated: firstly, to guarantee a minimum standard regarded as fundamental; secondly, to guarantee (over and above this) a general level of participation in national prosperity; and thirdly, to promote individual security by offering the means to make provisions and by giving legal substance to social guarantees. With globalization and internationalization progressively limiting the possibilities of coping with political tasks at national state level alone, the rebalancing of social policy priorities for the "post-sovereign social state" proves to be a highly significant issue.

From the comparative law perspective, it is necessary in this context to focus on the changes that have become apparent in different social security systems in the face of largely similar challenges, and to ask in what areas, for what reasons and in what way these systems have proven resistant to change. Along with constitutional and international law guarantees of protected social positions, other explanations must be sought for the existence of positions that are considered inviolable. An interesting aspect here is to take an interdisciplinary look at the validity of social positions – for instance from the angle of jurisprudence and that of political science – in order to take account not only of different legal forms of protecting vested social rights, but also their non-juridi-



cal equivalents. This problem area has been the subject of an exchange of views between this Institute and the Max Planck Institute for the Study of Societies, as well as the topic of a trans-institute research initiative entitled "Politics and Law Under Conditions of Globalization and Decentralization", which conducted three workshops in collaboration with members of the Institute staff (*Graser, v. Maydell, Reinhard*; cf. the research volume, *European and International Regulation after the National State: Different Scopes and Multiple Levels*, 2004).

Naturally, increasing internationalization will gain special importance in areas of interstate standard-setting. Worth mentioning here is the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption, which was framed on 29 May 1993, and entered into force in Germany in the period under review. In relations with other states, the Convention affects not only substantive adoption law, but especially the adoption placement procedure as such, which in Germany comes under the purview of social legislation. The example of German-Brazilian adoption cases was taken for an investigation into this new legal situation on the basis of the Hague Convention and its concepts for safeguarding the well-being of children, thereby including comparative law aspects (*Hohnerlein*).

Social Standards in Public International Law

The complex of questions revolving around the international regulatory framework was also addressed in the habilitation project by *Angelika Nußberger*, entitled "Sozialstandards im Völkerrecht. Eine Studie zu Entwicklung und Bedeutung der Normsetzung der Vereinten Nationen, der Internationalen Arbeitsorganisation und des Europarats zu Fragen des Sozialschutzes" (Social Standards in Public International Law. A Study on the Development and Significance of Standard-Setting by the United Nations, the International Labour Organization and the Council of Europe Concerning Issues of Social Protection). In line with the Institute's previous basic research on international social law (*Zacher, Köhler, Schuler*), the project sought from the outset to restrict the definitional scope of "international social law"

more tightly by only including standards of international, but not national origin. Conversely, it widened the conceptual scope by taking in fundamental rights standards, also those regarded as personal liberty rights, and comparing these to the specific social law standards. The investigation centred on standard-setting under public international law in the narrower sense by the Council of Europe, the United Nations and the International Labour Organization. The analysis of existing standards showed that states are prepared only on a small scale to commit themselves to international law in the social sphere. Concrete obligations are either not undertaken or restricted through reservations. In setting social law standards – insofar as this occurs at all in the form of conventions – the potential contracting states are granted numerous options from among differing regulatory complexes, thereby reverting to largely open conceptions. This clearly shows that these international organizations basically adhere to a quantitative and not a qualitative approach, the aim being to achieve as many ratifications as possible, but not to define standards that are uniform up to the last detail.

The application, since the mid-1980s, of international social standards as "operational standards" used to monitor legal developments in the contracting states highlights the dilemma of law-making at international level. Thus some of the standards are too open in their formulation as general clauses, offering too few definite criteria for monitoring decisions based on legal argumentation. Conversely, others specify concrete individual regulations whose significance can in part only be explained historically and which are therefore inflexible, making it necessary to tie fundamental issues to details. Individual aspects of the study point out that decentralized law-making and the dynamic interpretation of social standards lead not only to overlapping and duplication, but also to open and hidden conflicts between standards, as well as to divergences and conceptual contradictions that are not conducive to the elaboration of uniform law. The increase, replication and differentiation of international social standards is perceived as part of a comprehensive "legislization process", occurring also at international level, and hence as an expression of the conviction that it is

possible to steer societal processes from outside by means of law. Whether and to what extent this is in fact possible is examined in the theoretical part of the project.

The European Human Rights Convention and Social Law

In her dissertation project entitled “Europäische Menschenrechtskonvention und Sozialrecht” (The European Human Rights Convention and Social Law), *Angelika Schmidt* investigated an additional internationalization tendency. She commenced by examining a judgment delivered by the European Court of Human Rights in 1996 (*Gaygusuz*), in which the Court deemed the failure to grant Austrian emergency aid on the sole ground of nationality an inadmissible act of discrimination. This decision triggered a controversial debate on the significance of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) for social law. The aim of the dissertation was thus to assess the relevant court rulings on this matter and to examine in greater detail the requirements emerging therefrom for European and German social law.

The analysis of court rulings revealed that although the ECHR does not contain any guarantees in this respect, the European Court of Human Rights, above all, has addressed important aspects of social security and drawn them under specific rights of the ECHR. Thus, notably the procedural rights set out under Art. 6 ECHR were extended to include all social law proceedings. Art. 1 of the 1st Additional Protocol provides for an – albeit very weakly formulated – protection of vested rights in respect of firmly established and asset-based expectancies under social law, at least if these were funded by contributions. To the extent that social benefits are affected by a material guarantee under the ECHR, they are subject to the (accessory) prohibition of discrimination. In cases classified as severe discrimination under the so-called “suspect category” – notably those relating to sex and nationality – differentiation is admissible only under relatively strict preconditions.

The application of the principles outlined in the first part of the thesis to the social legis-

lation of the European Union showed, however, that the case law of the Strasbourg Court will be accorded only very limited significance here. At the most, the – meanwhile abolished – exclusion of third-country nationals from Regulation (EEC) No. 1408/71 raises doubts, in particular with a view to nationals of Convention states.

For German social law as well, the implications of the Strasbourg Court rulings are likely to remain limited, especially as the German Basic Law (constitution) already provides for procedural guarantees, as well as for the protection of vested rights and the protection against gender-related discrimination. On the other hand, there is some potential for the Court to exert its influence in cases of discrimination on grounds of nationality. Notably §§113, 114 SGB VI (Book VI of the German Social Code), § 62 (2) EStG (German Income Tax Act), § 1 (3) BKGG (Federal Child Benefits Act) and § 1 (1a) BzRG (Federal Child-Raising Benefits Act) meet with doubts in this context. Furthermore, there are numerous provisions that discriminate indirectly on grounds of sex or nationality, for which the ECHR could only become relevant if the European Court of Human Rights were also to classify them under the “suspect category”.

All in all, the practice of the Strasbourg Court broadens social law claims, not only because it extends the international legal protection of the individual under social law, but also because it recognizes social law positions as subjective rights of considerable import to the individual, and links civil and political with economic and social human rights. Nevertheless, the protection rendered falls short of its potential, so that its effects are currently (still) limited.

Supervisory Activity of the ILO Committee of Experts

Niklas Wagner's dissertation project was devoted to a more specific subject of internationalization (Internationaler Schutz sozialer Rechte: Die Kontrolltätigkeit des Sachverständigenausschusses der IAO [International Protection of Social Rights: The Supervisory Activity of the ILO Committee of Experts], 2002). The investigation dealt with one of the oldest international institutions



engaged in supervising compliance with international law standards – the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (ILO). Its functions and mode of operation have hitherto scarcely been acknowledged by the academic literature, despite the increasing significance of international social protection standards in the age of globalization. The dissertation examines to what degree the Committee of Experts is actually able to contribute to the member states' effective implementation of, and compliance with, the legal instruments framed by the ILO. To this end, archive material of the ILO, the German Foreign Office and the Federal Archives in Koblenz was evaluated. The thesis portrays the ILO's objectives and its standard-setting activities, the system for the enforcement of its legal instruments, as well as the theoretical conception of the Expert Committee's supervisory function, thereby focusing on its founding history and fundamental principles. The study moreover cites examples of several proceedings initiated against Germany.

c) Developments in States Undergoing Transformation

The profound changes to society and state structures in Eastern Europe have been one of the focal points of the Institute's work thus far. Correspondingly, the construction and reconstruction of social systems in the former Warsaw Pact states were accompanied from a scientific perspective (*Nußberger*). The Institute is now increasingly devoting its attention to developments in non-European countries that are likewise in a state of transition. To this end, it set up a country section for China in October 2002 (*Darimont*) and one for South Africa in autumn 2003 (*Mpedi*).

An initial survey of social insurance law in the PR China is rendered in the completed dissertation project by *Barbara Darimont* (*Sozialversicherungsrecht der VR China unter besonderer Berücksichtigung der Rentenversicherung und ihrer Reformfragen* [Social Insurance Law of the PR of China, With Special Regard to Pension Insurance and its Reform Issues], in print), which above all outlines the transition from occu-

pational insurance schemes to a comprehensive social insurance system of the Western type. It is thereby shown that the organization of social insurance without an efficient administration proves exceedingly difficult. Additional studies on the German and Chinese systems of dispute settlement in social security matters (*Cheng/Darimont*) have revealed that inadequate legal protection is an obstacle not only to the development of the rule of law, but notably to that of a social insurance system.

In view of the cited difficulties, the solution methods proposed in the PR China are indeed remarkable. On the one hand, China acts as a mere recipient of West European social law models; on the other, it conducts unconventional experiments with different models. The results of such approaches could prompt other states to proceed likewise. Precisely such a double strategy will be of considerable academic interest to the analysis of threshold countries because it illuminates the complex mechanisms of reception. A further scrutiny of reception aspects is to occur in a German-Chinese conference planned for 2004.

d) Demographic Development and Social Security

In the literature, old age is often regarded not as a social risk, but as a *risque heureux*, the onset of which everyone ought to strive for. Nevertheless, it is becoming ever more apparent – especially in the light of current debate on restructuring the social state – that the well-being of older persons crucially depends on their monetary security in that late phase of life. The rapid rise in the number of those who attain old or even very old age, i.e. over 85, is one reason why traditional social security systems have reached the limits of their financial sustainability. Such financial distress, however, mainly impacts systems, such as the German one, which have been conceived on the basis of employment – that is, which exclusively link the build-up of funds to previous gainful activity and concomitant contribution payments. Tax-financed pension systems have so far scarcely been affected by demographic developments, not least because high rates of unemployment do not directly come to bear on this form of pension funding. Hence, in

employment-based systems, two factors detrimental to funding have culminated, namely high expectation of life and unemployment.

Old-Age Protection and Demographic Development

Quite early on, the Institute identified old-age protection as a central theme of social security and embraced its subject matter in numerous comparative law studies. Initial investigations above all took stock of the systems, outlining their diverse components, for instance the protection of (older) survivors. Proceeding from there, the Institute turned its attention to the social policy reform discussion. Based on the question of whether – in view of the need for reforms and considerable funding difficulties – a minimum or core area of social protection was to be guaranteed and remain unaffected, the measures adopted under the pension policies of nine European countries and the United States were scrutinized within the context of the overall demographic trend (*Reinhard, Kaufmann, Hohnerlein, Köhler, Graser, Schulte*). The comparison revealed that despite widespread public discussion, all legislators had so far balked at tackling structural reforms of their old-age pension systems. Previous reforms were unworthy of that designation, since they had at best merely led to changes in fringe areas, but did not address the fundamental problem of underfunding. More often than not, only individual inconsistencies or certain privileges for specific groups were eliminated. In some instances, severe benefit losses were sustained solely by persons forced into premature termination of employment for health reasons.

On the other hand, the investigation also showed that benefit cuts in some areas have been partially compensated by extensions in others, an example here being the recognition of family work. To an increasing degree, raising children and caring for dependents is perceived not only as a personal problem, but one of society as a whole. Pension losses or reductions due to child-raising or care periods are thus partially compensated. Despite all such efforts, however, old-age benefits to persons who have raised children or cared for dependents fall far short of those

paid to persons with uninterrupted employment records. A paper presented at the international conference on “The Reform of Social Security Systems in Japan and Germany”, held in September 2001, elaborated the reasons for the reform of old-age protection to women under the German pension reform of 2001, highlighting the tendencies towards strengthening women’s independent provision for old age, above all through the further recognition of child-raising work (*Hohnerlein*). The reform of survivors’ pension insurance, which essentially seeks to shift a greater part of the expenditure burden to childless persons, comprises further elements of acknowledging the task of bringing up children. In any case, the extended recognition of child-raising and care periods indicates a step in the direction of modernizing the German social security system. A sufficient degree of social security in old age is thus no longer linked solely to previous employment, but increasingly perceived as a kind of “civil right”, to which every individual is entitled on a minimum scale, regardless of his or her employment biography. The basic protection introduced under the German pension reform also pursues this goal.

Supplementary Old-Age Provision

In a large number of countries, supplementary retirement insurance has long been a firm component of old-age provision, with a variety of structures established to this end. In some countries, supplementary options are placed on a voluntary footing; in others, they are mandatory. Of considerable importance is whether such options constitute a third level of protection, or whether they form a second one on top of the basic old-age pension. Third-level schemes, whether mandatory or voluntary, are organized on a fully funded basis in just about all countries. Alongside the renowned Swiss three-pillar model, the Swedish model is no doubt one of the most interesting (*Köhler*).

The diversification of old-age protection through fully funded schemes was, and is, a central theme of political debate – in Germany and abroad – although its intensity varies from one country to the next. A core issue of the German pension reform of 2001 was the partial substitution of state pension insurance by the introduction of a fully fund-



ed, tax-subsidized private insurance scheme, referred to as “Riesterrente” (named after Minister Riester who introduced it). As a voluntary form of retirement capital building, it has also broadened the spectrum of occupational pension schemes. At the same time, the longstanding practice of subsidized pension-for-salary arrangements was made statutory. Hailed as a novelty, Riester’s pension scheme met with widespread interest abroad. Given its exceedingly complex regulations, some of the Institute’s research staff set out to analyse and comment on the new statute. This work brought forth a publication on the German pension insurance reform and the introduction of supplementary old-age provision through capital formation (*Kaufmann, Köhler*), as well as additional contributions and a number of papers held at international congresses, for instance in Japan (*Reinhard*). A collaboration project with the winner of the Humboldt Research Prize, *Carmelo Mesa-Lago* (Pittsburgh), a reputed researcher in the field of Latin American pension reforms, yielded a comprehensive study in which the German pension reform of 2001 was examined and critically analyzed in the light of reform experience gained with fully funded private pension schemes in Latin America and Eastern Europe (*Hohnerlein*).

Additional questions address the form and financing of supplementary old-age provision. The financing can be left up to the insured alone, or it can also come under the responsibility of the employer. Ultimately, it must be asked whether a fully funded retirement scheme of that same type could not be made accessible to all those interested, disregarding employment. The formation of capital coverage does not already say anything about the form of the retirement package. Only one thing is certain: pension funds bear high risks. Contrary to a fairly widespread misconception, supplementary, fully funded old-age provision is not safe from demographic risks. In the event of a negative population trend, there will come a time – as in the case of the pay-as-you-go system – when more old investors claim their returns than young ones invest new funds. The resources of the capital market are then no longer guaranteed: the influx of capital falls short of the capital withdrawn. All these developments are still far from having reached an end. Several coun-

tries, such as France, Austria, Italy and Germany, have embarked on a subsequent stage of planning or implementing additional reforms, which are now in fact due to entail more extensive benefit cuts. Hence, state pension systems, supplementary schemes and other forms of provision for old age will remain a main focus of research. A current project involves country investigations and is to be followed by a comparative law overview (*Kaufmann, Köhler*).

International Trends in Old-Age Provision

The so-called “Riester Pension” reflects an increasingly marked trend within social security – in this context, old-age provision – towards a more extensive privatization of funding means. A further step in this direction was taken by Sweden, which is the only country to have actually reconfigured the structure of its old-age protection system by making it mandatory to invest part of the contributions in publicly quoted securities. This mode of procedure is so far unprecedented, and the assessment of this novelty of the Swedish pension system (*Köhler*) meets with great interest abroad.

In discussions relating to the reform of the German old-age pension system, the Institute is repeatedly questioned about the different solutions deliberated and implemented by foreign legal orders in respect of the demographic and financial problems impacting their own pension systems. Gaining knowledge about foreign social security systems and their embodiment within the given legal order is a central task of the Institute, and can directly result in the provision of application-oriented information to the expert community. For this reason, members of the research staff are regularly invited by associations (e.g. Association of German Pension Insurance Institutions), political parties and the media to present lectures and commentaries on foreign social security systems (*Becker, Graser, Köhler, Kaufmann, Reinhard, Schulte*). A particular information requirement exists on the part of the courts, which are obliged to include foreign pension expectancies in their decisions on the splitting of pension rights/credits in divorce cases. For the courts, the Institute is often the only establishment in Germany where such pertinent information is collected and furnished (*Reinhard*).

Ultimately, the relationship between standard forms of protection and supplementary schemes must undergo re-assessment in all systems. Owing to their historical development, standard social security systems and supplementary schemes have assumed highly diversified functions in the sphere of old-age protection and have been elaborated to very different extents. Whereas in countries such as Germany and Austria supplementary pension schemes, alongside the standard statutory system, have hitherto played only a rather marginal role, great significance is attached to them in the Anglo-Saxon countries, the Netherlands or in France, for example (*Reinhard*). In the latter case, this significance was demonstrated by the fact that the French supplementary protection schemes were included in the European co-ordination regulations (*Kaufmann*). At any rate, old-age protection systems are bound to be increasingly “Europeanized” in the course of implementing the so-called Open Method of Coordination by the EU member states.

This aspect led to a renewed comparative social law enquiry on the occasion of the conference organized by the German National Committee of Comparative Law in Dresden. The expert group for labour and social law, including members of the Institute, examined the relationship between standard systems and supplementary schemes. On the basis of reports on the situations in Germany, the Netherlands, Switzerland, Great Britain and Sweden, the differing functions exercised by supplementary schemes were discussed. In Germany, supplementary pension arrangements are above all provided by banks, large enterprises and the public service. Conversely, in the Anglo-Saxon area supplementary protection has a different function given that public old-age security there consists in a minimum basic pension that must, by necessity, be augmented by additional benefits. Switzerland has no main form of old-age provision; rather, the tendency is towards an indigence principle within a moderate frame.

The second pillar of occupational pensions is likewise faced by the demography problem. In the Netherlands, there is currently discussion within the public system to raise the retirement age to 67 and to introduce means-testing, while more flexibility and an

improved indexation policy is demanded for occupational pensions. Sweden is so far the only country to have actually effected a sweeping reform (*Köhler*). It took seven years of debate to reach a consensus there, which then, however, extended across all societal groups. Via the pension formula, the benefit is adjusted to the prevailing economic situation and the demographic trend, as a result of which pension payments might also decline in future. In the United Kingdom, demographic pressure is not as strong as in the rest of Europe because the public pension merely constitutes a minimum level of security. Yet also the second and third pillars are often regarded as insufficient there, with poverty in old age being a widespread phenomenon.

The General Report (*Becker*) addressed the question of whether supplementary protection should be assessed as a state task in the first place. A problematic aspect is that occupational retirement schemes are highly selectional in nature owing to their linkage to employment. As to organizational forms, it should be noted that the choice is very limited for mandatory supplementary schemes. All in all, the trend in the direction of supplementary benefits is indicative of the state’s withdrawal, although interaction between state and non-state pension schemes is still encountered everywhere. Differences and problems exist above all in respect of the risk of invalidity and survivors’ pensions, benefit equity through the recognition of child-raising periods, and equal treatment, for instance through unisex rates. Moreover, the mobility of insured persons wishing to change from one system to another and across frontiers is not regulated adequately.

e) The Labour Market and Social Security

Unemployment is a research theme that embraces social policy and social law. The basic objectives of unemployment protection are to provide income replacement in the event of an involuntary loss of work, along with ongoing reintegration into the active world of employment, and to adopt measures against exclusion. The realization of these objectives, however, is jeopardized in a number of ways. On the one hand, owing to high levels of unemployment, the specific systems are



generally no longer capable of fulfilling these tasks on a full scale, the decisive question being where and to what extent cuts should be made. On the other hand, these systems, usually established in times of full employment, prove to be structurally inadequate since they are based on the initial existence of an unlimited employment contract, which currently tends to be the exception rather than the rule. Inevitably, one must ask what will happen if a social problem of this dimension is merely postponed – if owing to the lacking possibility of acquiring expectancies under the social security system, the consequences of insufficient social protection must be borne in old age.

In many countries, there is a growing readiness to embark on system changes to meet new societal and labour market developments. Moreover, traditional social insurance systems are no longer fully adequate because their personal scope has become too narrow. Social solidarity is now on the test bench, with labour law and the attendant measures of flexibilization and deregulation playing a significant role since they provide the framework within which social law is able to unfold.

Protection in the Event of Unemployment and Specific System Restructuring

Following investigations on problems of exclusion and minimum protection prior to the period under review (*Kaufmann, Schulte*), the subject of unemployment has more recently been analyzed in a number of publications of a general and comparative law nature, as well as along country-specific lines (France, USA, Germany; *Kaufmann, Graser*). Within the diverse national systems, the emphasis placed on unemployment insurance – in Germany, employment promotion – depends on the specific context. This has resulted in a variety of solutions that differ from country to country. The international comparison reveals a general trend towards a shift from pure insurance against the risk of unemployment to a coupling of external benefits with the insured's own provisions. Generally, it seems that reintegration measures and, in the run-up to these, anticipatory promotional and further training measures are becoming central instruments for combating unemployment. In so far, the departure from

singular or largely passive benefit claims based on insurance periods amounts to an extensive reform.

The Institute's collaboration with Turkey also yielded interesting findings in this field (*Hänlein, Kaufmann, von Maydell*). Following a comparative law colloquium, held in Cesme in 2000, on the subject of unemployment and measures of combating it in Germany and Turkey, the conference volume was published in both languages in the same year. The colloquium clearly showed that social problems in countries such as Turkey, where unemployment insurance has only recently been introduced, differ widely from those in Germany, where traditional unemployment insurance has reached its limits; the potential solutions are thus also to be sought on different levels. This type of juridical comparison demonstrates that instruments of labour law can assume social security functions.

In times when liberalization, flexibilization and deregulation form core issues of political debate, the United States tends to be sought out as a social policy point of reference. Especially with a view to the combining of unemployment relief and social assistance in Germany – which was also a subject of research at the Institute (*Reinhard*) – accompanied by calls for labour market "activation", the United States has frequently served as a model in domestic reform discussions in academic (mainly economic) and political circles. The Institute sought to make a contribution towards substantiating these discussions. Thus in November 2002, *Robert I. Lerman*, labour market economist from the Urban Institute and the American University in Washington, held a public lecture on the effects of the welfare reform on US labour market policy. In a panel discussion at the University of Frankfurt on the pertinent Hessian draft bill that had been submitted to the Bundesrat, a member of the Institute held a paper on the lessons possibly to be learned from US experience with labour market activation measures. The Institute's research work on this subject has moreover yielded a series of publications that deal with the legal framework of the US low-wage sector from a comparative perspective, thereby addressing the objectives and effects of the welfare reform and the in-

creased application of negative income taxation (Graser).

The Workplace and Protection Against Unfair Dismissal

US regulations are also often referred to when contemplating reforms to the legislation governing protection against unfair dismissal. This facet of labour market policy has been addressed by the Institute for several years now. The basic aim has been to confront prevailing stereotypes of US law with a more differentiated picture of the situation there. Above all, a particular aspect of the US system was in the foreground in the period of this report, namely the targeted use of incentives for the protection of vested rights via the computation of unemployment insurance contributions (experience rating). A detailed examination of this special feature of the US system resulted in a number of publications in the period under review that discuss possible lessons to be learned for the reform of the German system (Graser).

These concrete reform-related studies simultaneously gave rise to a more general and basic research issue, namely the functional congruencies of unemployment insurance, protection against unfair dismissal, and a range of additional legal instruments that relate to the termination of employment and take effect in the border zone between labour and social law. This field offers a host of interesting research questions from the perspective of both legal history and comparative law. An initial enquiry was launched by the Institute in April 2003 with the workshop entitled “Protection Against Unfair Dismissal and Social Security”. It not only discussed the relevant US and German legislation, but specifically addressed the pertinent reforms undertaken in Turkey, where the longstanding system of seniority-based severance pay has in recent years been complemented by unemployment insurance as well as general protection against unfair dismissal.

Working Time and Social Security

Social security and the instrument of working-time adjustment can influence each other reciprocally. Thus they directly impact social insurance systems that are primarily

funded through employment-based contribution payments. This aspect, too, formed the subject matter of a series of lectures (Kaufmann, Köhler). The flexibilization of working time was also addressed by way of a juridical comparison at the German-Turkish conference held in Antalya in 2003 (Kaufmann). German working-time regulations ideally exemplify the importance of social law provisions for the protection of the persons concerned. The diverse options of part-time employment, provided they are used, can have positive effects on bringing occupational and family life into line with each other – the drawback being the lower level of social security in old age. At any rate, a considerable need for innovative approaches is seen here. Worthy of additional note is that the Antalya conference did not only address the German-Turkish comparison of working-time flexibilization, but also established the link to European Community law.

f) Contributions to German Social Law

Similar to comparative jurisprudence, investigations into foreign social law proceed from the knowledge of national law. Only in this way can questions of relevance to a functional juridical comparison be developed. At the same time, it has always been a concern of the juridical Max Planck Institutes to make German law accessible to interested foreign experts, as it were on a give-and-take basis. Dealing with German social law has therefore, from the outset, been one of the Institute’s permanent task fields.

In this context, a number of extensive publications can be cited for the period under review, in particular: the comprehensive habilitation thesis “Rechtsquellen im Sozialversicherungsrecht” ([Legal Sources in Social Insurance Law] Hänlein), the updating of the Commentary on Maternity Protection and the Federal Child-Raising Allowance Act (Becker), as well as a monographic Commentary on the Federal Social Assistance Act (Reinhard). The compilation of guidelines to the pension reform concerning the social insurance pension and the different supplementary old-age pensions (including the so-called “Riester Pension”) sought to provide an easily comprehensible account of this highly complex legal field (Kaufmann, Köhler). The portrayal of German labour and



social law in the French language was brought up to date in a revised edition (*Kaufmann, Köhler*).

In addition, the Institute examined the planned amalgamation of unemployment relief and social assistance. An institutional change of such dimensions raises a number of constitutional problems, for instance as regards the social state principle or legislative competence in the financing of social benefits. The former Federal Ministry for Labour and Social Affairs asked the Institute to deliver a statement on these questions to be used in the further political discussion (*von Maydell, Reinhard*).

In a sub-project that simultaneously comprised his doctoral thesis, *Markus Hollich* investigated the “securing of working-time credits in the event of the employer’s insolvency”. He commenced by examining tendencies toward flexi-time arrangements in the interests of both employers and employees as well as the labour market. These have led to the introduction of working-time accounts, which pose a series of legal problems in the fields of labour and social law. One of the questions which have so far not been answered satisfactorily is how “credits” saved by employees in such accounts can be secured in the event of the employer’s insolvency – an issue that is of particular interest in times of innumerable company failures. Although the German lawmaker has adopted a pertinent regulation under § 7d SGB IV (Book IV of the German Social Code), this obviously cannot as yet be deemed conclusive, given that its prerequisites and legal consequences are still contested. The project reviews the existing legal situation and interprets it, arriving at the conclusion that – even under the newly enacted insolvency protection regulation under § 7d SGB IV – working-time credits are in no way sufficiently secured against loss owing to insolvency. Rather, these provisions show gaps and, in the final analysis, effectively remain useless. Consequently, an amendment is considered essential and proposals for further legislative development are elaborated.

German social law and public service law were also the subjects of lectures held at the Universities of Strasbourg and Rennes. Moreover, an array of papers presented at

numerous events at home and abroad reflected such principal issues as the conformity of German law with the ever more dense network of EU legislation; many of them were published as essays and in anthologies.

2. Individual Projects

a) Persons with Disabilities in Social Law and Social Policy

How persons with disabilities can be integrated into society is currently an important issue – not only in social policy discussions, but also in those conducted by the public. This was recently highlighted by the proclamation of 2003 as the “European Year of People with Disabilities”. In Germany, these discussions led to a constitutional amendment through the insertion of the prohibition of discrimination in the second sentence of Article 3 (3) of the Basic Law and to the codification of rehabilitation legislation in Book Nine of the German Social Code (SGB IX). At European level, a general non-discrimination clause has been incorporated into Article 13 of the EC Treaty, and a Council Directive was adopted establishing a general framework for equal treatment in employment and occupation.

Upon establishing legal norms, their implementation must at all times be borne in mind. In a world epitomized by globalization, international comparisons are gaining more and more significance. When developing a social law infrastructure, juridical and social comparisons, including comparative administrative jurisprudence, are able to identify those regulatory fields which must also be considered from the viewpoint of ultimate effectiveness. Based on a functional definition of persons with disabilities, the aim is to enable these persons to “participate” in education/training, employment and social security, while at the same time dismantling social barriers and providing access to assistance in special circumstances of life. Thus enquiries submitted to the Institute from Asian countries concerning European solutions for the integration of persons with disabilities in society provided an incentive to launch the research project “Disability in

Europe and Asia" (*von Maydell, Schulte, Pitschas*). This subject field is fraught with specific difficulties for a comparative research approach. Existing religious and philosophical value concepts as well as cultural preconceptions, for example, will have some bearing on whether caring for such persons and integrating them in society is considered a task of individuals themselves and their families, of society or also of the state. These notions, along with other sub-legal differences such as prevailing economic and political circumstances, demonstrate that alone the prerequisites and regulatory framework underlying the adoption of disability legislation will differ widely from country to country.

Proceeding from here, the Institute, in collaboration with the German University of Administrative Sciences Speyer, organized two conferences in Speyer and Berlin respectively. The main objective of the Speyer conference, held in autumn 2001, was to discuss country reports from European and Asian states on the situation of persons with disabilities there (*Pitschas/von Maydell/Schulte*, *Teilhabe behinderter Menschen an der Bürgergesellschaft in Asien und Europa* [Participation of Persons with Disabilities in Civil Society in Asia and Europe]). These discussions produced a series of central issues that were used to develop a questionnaire. With the help of the latter, existing country reports were revised, and additional reports were compiled resulting from the inclusion of further countries in the comparison, notably the United States. These reports subsequently formed the basis for the Berlin conference in spring 2002, which was held in collaboration with the Japanese-German Centre Berlin (JDZB) on its premises. The main focus was now no longer on individual reports, but on cross-sectional themes introduced by analytical papers. The national reports and cross-sectional papers were printed in a further volume of the Institute's publication series (*von Maydell/Pitschas/Schulte*, *Behinderung in Asien und Europa im Politik- und Rechtsvergleich* [Disability in Asia and Europe in a Political and Juridical Comparison]).

The findings of this research project can be summarized as follows:

In the past decade, organizations on behalf

of persons with disabilities have striven worldwide to give the subject of disability a new ranking within the broader scope of human and civil rights. During this same time, Europe witnessed a paradigm shift. Instead of viewing people's physical or mental handicaps as a central problem (deficit model), the prime emphasis is now placed on these persons' potential for participating in social and – especially – working life, as well as on the respect for human rights and, more important, their fulfilment. This has heightened the importance of interdisciplinary research into social law infrastructures for the integration of persons with disabilities. In the process, law assumes a specific responsibility expressed by diverse functions: on the one hand, it seeks to level out inequalities between disabled and non-disabled persons; on the other, it applies itself to the juridical control of non-legal interventions, say, through social services; and finally, it ensures that its guarantees are in fact fulfilled by the pertinent institutions and procedures. Consequently, the effects of legal control and, hence, the successes achieved in the implementation of law are the matters that count here. Law on behalf of persons with disabilities is "law in action". The protection of these persons' human rights is subject to twofold dependence: dependence owing to their disability, and dependence on those actors and institutions who by enacting and applying law strive to make the complexity of atypical circumstances of life bearable in the given society.

b) German-Japanese Cooperation

German-Japanese cooperation in the field of social law and social policy, in which the Institute has been playing a decisive part since 1997, was continued during the 2001-2003 period. The work conducted in the initial years, notably the two conferences held in Germany in 1998, is reported in a research volume (*v. Maydell/Shimomura/Tezuka*, *Entwicklung der Systeme sozialer Sicherheit in Japan und Deutschland* [The Development of Social Security Systems in Japan and Germany]).

An additional symposium took place in Germany in 2001 and was documented by the Japanese-German Centre in Berlin (*Reform der sozialen Sicherungssysteme in Japan*



und Deutschland [Reform of the Social Security Systems in Japan and Germany], 2003). Moreover, the retired director and the present director participated in seminars held in Japan in 2002 and 2003. Research stays of Japanese scholars, who came to work at the Institute for several days and sometimes months, were also continued (among others, *Tezuka, Motozawa, Matsumoto, Arai, Tanaka*).

In view of the longstanding collaboration, also manifested in a wide range of adopted measures, this report is unable to render an isolated description of the individual activities, but seeks to characterize specific elements and special features.

The cooperation is essentially bilateral as it occurs between Japan and Germany. That, however, does not preclude taking a broader perspective on other European states and the European Union. The work of comparing the legislation and policies of Japan and Germany is not primarily based on the literature, but is carried out actively in that researchers and practitioners from both sides furnish information on the factual and legal situations in the two countries, and then conduct analyses and evaluations on these foundations. Such bilateral collaboration involves institutions as well as individuals. The main Japanese partners are the National Federation of Health Insurance Societies (Kemporen), the Japanese Culture Foundation and the Univers Foundation, while the German side is represented by the Institute.

It is within the framework created by these institutions that researchers and practitioners have embarked on their activities – initially, on the basis of a three-year cooperation agreement and subsequently through individual arrangements. Depending on the subject of investigation, a core group is frequently joined by further experts. The disciplines involved vary considerably and above all include jurisprudence, economics, medicine and the social sciences. The academics and practitioners forming the core group on the Japanese side regularly come to the Institute for research stays to keep abreast of legal developments in Germany.

The forms of work within the overall frame of collaboration are flexible. Symposiums

and conferences in Japan and Germany are complemented by reciprocal research stays and lectures. In the process, the objectives set under the original cooperation agreement have proven very helpful. The researched themes centre on problems encountered in health, long-term care and old-age insurance, but also address issues in conjunction with the labour market and unemployment insurance.

The findings of previous analyses show that Japan and Germany face very similar challenges as far as social security reforms are concerned (demographic development, increasing health care expenditure, labour market changes, etc.), so that the nature of the responses to these challenges has been in the foreground. Apart from dealing with very basic issues, the examinations also highlight concrete reforms such as the funding of the hospital sector or the organization of long-term care.

Owing to the enduring cooperation and the resultant intricate knowledge of the circumstances prevailing in the respective countries, the concrete reform measures adopted in both countries can now be analyzed in a much more detailed and thorough manner than by way of selective comparisons.

c) German-Turkish Cooperation

The establishment of a country section for Turkey (*Hänlein*) was a consistent step in view of its potential accession to the EU, the large number of German inhabitants of Turkish origin and the active reception of Western law in Turkey. The resultant German-Turkish collaboration occurred under the auspices of the Institute as well as the Turkish and German associations of the International Society for Labour Law and Social Security. The main focus of research was on European labour and social law regulations and their significance for national Turkish and German law.

Initial symposiums took place in Munich and Cesme in 1999 and 2000, and were accompanied by respective publications (*von Maydell, Ekonomi, Centel*, Aktuelle Probleme des Arbeits- und Sozialrechts [Current Problems of Labour and Social Law], Istanbul 2001; *von Maydell, Ekonomi, Arbeits-*

und sozialrechtliche Probleme der Arbeitslosigkeit [Labour and Social Law Problems of Unemployment], Ankara 2003). Further conferences were organized by the collaboration partners in the period under review at Ringberg Castle and in Antalya, in 2001 and 2003 respectively.

The Ringberg conference was devoted in particular to the influence of international and supranational law on the labour and social legislation of both states. In the process, the conditions and prospects for bilateral agreements and association law were addressed (*Ekonomi, von Maydell, Hänlein, Der Einfluss internationalen Rechts auf das türkische und das deutsche Arbeits- und Sozialrecht* [The Influence of International Law on Turkish and German Labour and Social Law]). The Antalya conference, by contrast, was restricted to the specific problem of the extent to which working-time flexibilization impacts labour law.

d) One-Parent Families

Single parents – in the large majority of cases, mothers who raise children without the support of a partner bearing parental responsibility – are regarded in most European states as a familial category in need of particular protection. The proportion of this category among families with children is growing steadily, and it tends to be more dependent on social benefits than others. In so far, one-parent families are a measure of the social state attitude to families, given that central problems relating to familial change processes are concentrated in these households. Such problems are reflected above all in the compatibility of paid employment and unpaid child-raising work, or in the recognition of unpaid family work, but also in the relief granted to families with dependent children as opposed to childless persons, and thus ultimately in the question of how and to what extent the state generally assumes responsibility for the support of parents.

The comparative law project – in collaboration with foreign social law experts – on the protection of one-parent families in the social state seeks to investigate in what way various European constitutional states (Germany, Austria, Italy and Switzerland) define

their commitment towards these families and whether certain processes of dynamic development are recognizable here. This subject matter, unlike that of other comparative studies conducted by the Institute, is not confined to a particular scope of benefits or branch of security, but broaches on a broad spectrum of legal regulations within social and taxation law, as well as family, maintenance and labour law, including provisions of constitutional law. The main focus is on public benefits as well as social services and the infrastructure of child-care facilities, enabling single parents/mothers to engage in their own gainful occupation and thus promoting these families' financial autonomy (*Hohnerlein*).

In the period under review, country reports were completed on Germany (*Hohnerlein*), Austria (*Marhold/Kapuy*) and Switzerland (*Murer/Rumo-Jungo*), and were published in ZIAS (Journal for Foreign and International Labour and Social Law) in 2003. A study on Italy (*Ales*) and a comparative summary are planned for 2004.

e) The Third Generation

Fewer and fewer members of our society live together with children. In a time when people are growing older and children have come to form a comparatively small portion of the population, this leads to polarization. Numerous social science investigations point out that the “family system” does not function unconditionally, but requires consideration and support. The kind of support that is supposed to be rendered to families with children is highly controversial in its details. Promotional concepts of family policy are gaining momentum and, with European integration likewise progressing, there is a higher degree of awareness than before that other countries differ distinctly as regards public sensitization to the concerns of children and parents, and as regards the social and legal conditions under which parental responsibility is made possible. Previous research in this field stems from other academic disciplines, thus often dealing only with partial aspects (such as employment of mothers) and tending to place the family as an institution, rather than children, in the focus of attention.



The Institute's new project (*Becker, Hohnerlein, Kaufmann, Köhler*), drafted in the period under review, now for the first time illuminates the legal bases and regulatory purposes of benefits and promotional schemes in connection with the maintenance, upbringing and educational/training requirements of the rising generation. The central theme addresses the normative foundations of, and reasons for, a policy of promoting a child-oriented environment – criteria which are only revealed through a combined scrutiny of such very heterogeneous legal fields as social benefit law, taxation law, family law and labour law. The comparative multi-country investigation, which according to current plans includes Germany, France, Italy and Sweden, aims to provide a comprehensive and reliable portrayal of the statutory bases, i.e. the relevant legal norms as they have actually been implemented in the respective cultural and societal settings. Special emphasis is thereby placed on investigating where the diverse states draw the line between primary parental maintenance obligations, involving the provision of cash funds, family care and education/training, and the public responsibility for furnishing children with adequate conditions of living and development – or, analogous to old-age protection, to what extent the multifarious needs of children are “socialized” in the countries compared. In the period under review, country studies were prepared on Germany, France and Sweden, and are to be published in 2004.

f) Integrative Schooling of Children with Disabilities

Legislation on behalf of persons with disabilities has been subjected to numerous amendments at regional, federal and European levels in recent years, with one main objective of disability policy now being given greater priority than in the past. It is the objective of integration – or, as the German legislator puts it, the aim to promote the equally entitled participation of persons with disabilities in the life of society (§ 1 SGB IX [Book IX of the German Social Code]). Indeed, to unfold real effects, such a statutory shift of emphasis requires not only a certain period of adjustment, but above all its concrete implementation in countless individual spheres of societal life.

One such area in which the achievement of the aim of increased integration is currently up for debate has been singled out by the Institute for an in-depth investigation. It centres on the integrative schooling of children with disabilities. The pertinent regulations are currently a subject of controversy in many of Germany's constituent states and have been amended, in particular, under Bavarian State school legislation. The subject matter moreover offered the possibility for collaboration with the MPI for Human Development.

This research perspective permits the examination of numerous problems that are typical of the general legislation and policies on behalf of persons with disabilities. Communication between the relevant disciplines has proven to be highly deficient up to now. A dialogue between promotional pedagogy and the sociology of disability on the one hand, and jurisprudence on the other, has so far scarcely taken place. Even the intradisciplinary divide between educational and social law has constituted a substantial barrier. At institutional level, this corresponds to a complex structure of split competences that is hard to penetrate. Frequently, there is a lack of clarity as to the tasks and discretionary margins of legislation, administration and justice at both federal and state level. Legal science has apparently been unable to permeate this field to any great extent – and as far as comparative law is concerned, it is even *terra incognita*.

The Institute therefore first approached this subject matter by organizing a conference with the aim of launching a dialogue beyond the bounds of disciplines and countries (*Graser, Becker*). Three general introductory papers taking pedagogic, sociological and legal perspectives were followed by two reports respectively from the United States and Austria, which are able to look back upon a long range of experience in integrative schooling. In the light of these contributions, the situation in Germany was discussed – taking as a specific example the Bavarian amendment, the origins and contents of which were elucidated by two experts from the competent ministry. The publication of the conference volume is scheduled for spring 2004.

g) Core Labour Standards in Development Cooperation Agreements

The integration of social clauses into the framework of the World Trade Organization has been a subject of extensive discussion between developing and industrialized countries for several years. By giving binding effect to social clauses, the intention, according to numerous industrialized states, is to ensure humanitarian labour standards and a sufficient level of social protection. As a rule, reference is made to the so-called “core labour standards”, which are listed in a declaration issued by the International Labour Organization and laid down in a total of eight ILO Conventions. They include the areas of forced labour (Nos. 29, 105), freedom of association (No. 87), right to organize and collective bargaining (No. 98), equal remuneration (No. 100), non-discrimination at the workplace (No. 111), minimum employment age (No. 138) and elimination of the worst forms of child labour (No. 182). Some developing countries, however, view such provisions as an attempt on the part of industrialized countries to eradicate one of their prime competitive advantages, namely low wages.

In this context, Germany is faced with the question of how far compliance with the core labour standards can, and should, be given binding force when carrying out development cooperation projects. This is reflected against a background of mounting concern that projects which fail to comply with certain minimum standards could nevertheless be sponsored within the scope of development cooperation and therefore meet with negative publicity – similar to the environmental sector. Unlike previous years, development cooperation projects tend now to be regarded more strongly in their entirety, with such aspects as environmental compatibility and the impact on the living circumstances of those concerned being subjected to more detailed scrutiny.

The Institute was commissioned by the Gesellschaft für Technische Zusammenarbeit (GTZ) with the task of investigating the legal admissibility of incorporating core labour standards into contractual agreements on development cooperation. Based on a preset problem catalogue, the first step

was to assess whether it is at all possible to impose a legally binding obligation on contracting parties to comply with the core labour standards in view of the fact that the latter constitute rules of public international law. The subsequent step was to discuss efficient monitoring measures and the legal admissibility of sanctions.

The study (*von Maydell, Nußberger, Reinhard, Höveler*) sought to highlight several aspects of public international law, such as the binding nature and enforceability of international standards. It also addressed issues of international commercial law and public procurement law. Although these legal areas do not rank among the “classic” fields of social law, public procurement and competition law, in particular, are becoming increasingly significant in the social security sphere, as is demonstrated by the health care system. In the light of mounting economic globalization, reflections on the extent to which social standards can be enforced by means of commercial law will gain added importance. Thus, as far back as 1998, the European Union linked compliance with social standards to the award of customs tariff preferences. On reviewing the pertinent clauses in 2002, this link was reinforced and cooperation with the ILO was intensified. International developments show that in numerous countries the implementation and enforcement of social clauses is a subject of heated debate, which is likely to become more intense as globalization progresses, given that these issues impact the foundations of socially protected life. Owing to this fundamental significance of (further) developing social clauses, the subject area of core labour standards will remain a theme of Institute research.



3. Other Research Areas

a) Junior Research Group

As from October 1998, an Independent Junior Research Group was established at the Max Planck Institute. *Yves Jorens* was appointed as head of this group. Its research theme was the influence of international legal norms and rules on social policy and social law, especially with a view to the European integration process. The project came to an end in spring 2002 due to the fact that the group head was appointed fulltime professor at the University of Ghent in Belgium.

Seminars

In the period under review, the Junior Research Group organized two international seminars dealing with its key research subjects. The first seminar took place in Antwerp, Belgium, and the second in Berlin, Germany.

The Antwerp Seminar focused on a very topical subject: "The influence of international organizations on national social security law in the European Union – the example of old-age pensions". The intention was to clarify the processes of decision-making by all parties involved in formulating old-age pension policy. Special attention was also paid to European social policy and, in particular, to the open method of coordination employed at that time in the field of old-age pensions. The seminar was attended by representatives of international organizations, national member states and other organizations active in the field of old-age pension policy. The seminar proceedings were published (*Jorens*, The influence of international organizations on national social security law in the European Union. The example of old-age pensions, 2002).

The Berlin Seminar was dedicated to a second very topical theme: "Open method of coordination – objectives of European health care policy". The intention of this seminar was to launch a discussion on the growing influence of the European Union in the field of European health care policy. Contrary to old-age pensions, the open method of coordination had not as yet been accepted in the health care field. With this

seminar, the Junior Research Group wanted to offer a forum to representatives of international organizations, national social security institutions and member states. In the final part of the programme, the collaborators of the group presented some of the conclusions of their research. The results were also published (*Jorens*, Open method of coordination. Objectives of European health care policy, 2003).

By way of these two seminars, the Junior Research Group also sought to promote the exchange between scientific research and practical experience. This is definitely necessary for a research group dealing with the influence of international organizations on national social policy. Thus both conferences were attended by representatives of international organizations such as the World Bank, the European Union, the International Labour Organization and the Council of Europe. Given the European dimension of the two broad issues discussed there, it should be emphasized that the research conducted by the group was fully in line with political discussions in progress within the EU at the time.

Activities of the Head of the Junior Research Group

From the initiation of the Junior Research Group, *Yves Jorens* was active in different projects sponsored by the European Community and the Council of Europe.

Of particular significance during this period were the following three projects on behalf of the Council of Europe: "assisting in defining a social security framework in Albania compatible with the European code of social security; assisting in defining a social security framework in Moldova compatible with the European code of social security; and assisting in defining a social security framework in Romania compatible with the European code of social security". These projects dealt in particular with the way in which the above-mentioned countries were building up their social security systems in line with the minimum standards defined by the Council of Europe.

The head of the research group also was, and still is, director of the project, "European

Observatory for the Social Security of Migrant Workers”, initiated by the European Commission, Directorate-General for Employment and Social Affairs, and assigned to the Max Planck Institute for Foreign and International Social Law.

The contract is for the management and operation of the European Observatory on Social Security for Migrant Workers. The Observatory is comprised of a network of 15 national experts based in all member states of the European Union. Its function is to report on developments in legislation, administration and jurisdiction with regard to the practice, implementation and application of the coordination Regulations 1408/71 and 574/72 on social security for migrant persons in the member states. The work and its direct supervision are the responsibility of the aforementioned Directorate-General.

Activities of the Group Members

During the period under review, two collaborators of the Junior Research Group, *Marcus Goebel* and *Roland Klein*, prepared their PhD theses.

Marcus Goebel completed his doctoral thesis in 2002 (*Goebel*, *Konvergenz-Strategie und offene Methode* [Convergence Strategy and the Open Method]). His investigation was devoted to a significant development in the sphere of European standard setting: in the early 1990s, the European Community sought to meet the need for a more uniform social policy in its member states by pursuing a “policy of convergence”. Proceeding from the definition of common objectives, the aim was a more uniform development of the national social protection systems in future by taking account of such common objectives when contemplating reform measures. Some ten years later, there was a change in this strategy: the initial convergence strategy was replaced by the newly launched “Open Method of Coordination” in some sub-areas of social policy.

The dissertation project therefore addressed the question of whether the Community’s goal of achieving more common ground in the member states’ social policies had been reached, or whether it could be reached in future through the newly introduced open

method of coordination. The main emphasis was placed on examining and comparing the consecutive procedures adopted by the European Community to this end. The first step was to outline the development of European social policy and the resultant conception of the convergence strategy, highlighting the concrete structure of the strategy (1). Subsequently, it was investigated whether convergent developments in the field of social policy were at all discernible in the member states, for instance in pension policy (2). This was followed by an up-to-date overview of how the current coordination strategy – as it had already been developed by the European Community for the sphere of social inclusion under the designation of “open coordination procedure” – was to be implemented in additional social policy areas (3). Finally, both methods of standard-setting were again compared, thereby asking whether coordination was merely an improved form of convergence policy, or whether it constituted a novel procedure from which considerable success could be expected (4).

In the final analysis, the open method of coordination is likely to prove more successful than the convergence strategy, given that the member states are obviously not prepared to transfer more extensive social policy competences to the Community and allow themselves to be monitored by the Commission. This can be taken as a lesson learned from the lacking success of the convergence policy and its in fact weak monitoring procedure. Consequently, entrusting supervision to the Council, which is dominated by the member states, and in this way circumventing the Commission as a controlling body, can be viewed as a prerequisite for the member states’ readiness to subject their social policies to a more far-reaching convergence process within the framework of the open method of coordination.

In October 2000, *Roland Klein* started his PhD project entitled “Die Anwendung der Kollisionsnormen des Europäischen Sozialrechts auf das Rechtsverhältnis von Arbeitgeber und Arbeitnehmer” (Application of the Collision Rules of European Social Law to the Legal Relationship Between Employers and Employees). The investigation’s main focus is on conflicts of rules within the sphere



of European social policy and their influence on international labour law. In particular, it seeks to address the mutual relationship and possible competition between the collision rules of European social policy and those of international labour law.

In addition to these two doctoral collaborators, three student assistants were also active in the Independent Junior Research Group (Schenk, Heimerer, Christiansen).

b) Emeritus Workplace of Prof. Dr. Hans F. Zacher

(1) For the large part, the work was dedicated to the subject of the welfare state (social state) – in particular to the endeavour to understand and depict its problems as an entirety. This specific objective is founded on the “lifelong” experience that the welfare state tends to be perceived, comprehended and assessed selectively – that is, individual elements are emphasized and only too often substitute a part for the whole, while others are neglected. For instance:

- in that the corrective, *targeted “social” intervention* (i.e. the social benefit, the social protection, etc.) is identified with the welfare state, while the premise of positive *social normality* is neglected;

- in that the social actions of the *state* are identified with the welfare state, while the contribution of social elements *by private and societal actors and processes*, which are at all times essential to a liberal social state, is neglected;

- in that *social benefit and social protection schemes accompanying individual and family life* (in the sense of the basic formula of work, income, need satisfaction and support) are identified with the welfare state, while the systems comprising *supra-individual general services to the public* (education, health care, communication, environment, infrastructure, security, the economy; regional, sectoral and structural promotion, etc.) are neglected;

- in that the *giving* of benefits is identified with the welfare state, while the *taking* of means (notably the “how” of taking through taxes and contributions) is neglected.

Two inequations of this kind are of particular importance here:

- The *overestimation of the normative control* of social elements (above all through general formulae such as human dignity, social equality, social justice, solidarity, social participation, social inclusion and social security) in relation to the *underestimation of the institutional conditions governing social policy* (the concrete structuring of democracy, the federal state [Der soziale Bundesstaat, 2003/2003], the rule of law, etc.), and the attendant structural-procedural conditions governing private and societal action (e.g. freedom of association, self-employment, market economy).

- The *dilemma of welfare state development* (Die Dilemmata des Wohlfahrtsstaates, 2001). All developmental steps taken by the social elements generate *path dependency*. They give the normative formulae of the welfare state the appearance of material certainty, and the rights and interests evolving therefrom (“social achievements”) a fundamental irreversibility. Conversely, the *history of the social state forever demands path correction*. Every new step in the development of social elements alters the circumstances to which they respond. Yet even far beyond that, the preconditions and effects of the social elements are subject to change.

This continually restricted perception of the welfare state is reflected comprehensively in the phenomenon of “*restricted rationality*” in making assessments and decisions about the welfare state – put differently, it is manifested in the *topic dissolution of causal relationships between perception, understanding, assessment and decision-making* within the welfare state (Die Herausforderungen des Sozialstaates und die Interpretation des sozialen Staatsziels, 2002). The norms according to which the welfare state is assessed (such as the social state objective, “social justice” or “solidarity”) are, however, of a more general and extensive nature. Their topically isolated application to restricted causal relationships distorts and weakens them. Their practice was and is *a priori* confused. It is not these norms that decide on how social elements react to changes in their own prerequisites; rather it is the institutional prerequisites of social policy, the societal pre-

requisites of these norms' effectiveness and the historical prerequisites of the development path that do so. The *difficulties encountered in the reform of the German social state* are essentially attributable to this misconception (Zur Lage des deutschen Sozialstaates, 2002; der Sozialstaat an der Wende, 2002).

A comprehensive depiction of these relationships is to be provided in the revised edition of "Das soziale Staatsziel" ([The Social State Objective] in: Josef Isensee/Paul Kirchhof [Eds.], Handbuch des Staatsrechts, Vol. 1, 1988, pp. 1045-1111). It has been compiled for volume 1 (now possibly also volumes 2 and 3) of the "Handbuch des Staatsrechts". Not least because of the editors' firm insistence, the manuscript was submitted to the publishers as early as January 2002.

(2) An overall reflection on the welfare state will necessarily embrace a visualization of its history. The participation in the project entitled "The History of Social Policy in Germany Since 1945" presented a unique opportunity to do so. The retrospective view begins with Germany's occupation, is followed by separate accounts of the development within the Federal Republic of Germany and that within the German Democratic Republic, and ends with Germany's re-unification (within an integrating Europe and the "global" world). Participation took place on two levels: through the academic accompaniment of the entire work (in the "Advisory Board" in collaboration with Hans Günter Hockerts, Franz X. Kaufmann and Gerhard A. Ritter); and through a "portrayal of the foundations of social policy in the Federal Republic of Germany" (Grundlagen der Sozialpolitik in der Bundesrepublik Deutschland, 2001).

(3) The ultimate reason for the welfare state is the protection of human dignity. This approach is *a priori* a universal one. The welfare state principle, however, only became feasible through the modern national and/or constitutional state. Thus from the very beginning, the welfare state principle stood in a tense relationship between inclusion and exclusion – between regimes that provide for nationals' social inclusion within the national territory and regimes that regulate foreign

nationals' share in this inclusion as well as the share potentially taken abroad by the own nationals; and finally between the common regimes of states that relativize this conflict and spread a certain measure of inclusion across the community of states, a continent or the whole world. In the succession of these structures, Germany's history proved to be extremely diversified. That formed the subject matter of an entire sequence of investigations (firstly, in: Grundlagen der Sozialpolitik, 2001, pp. 615-650; subsequently, in: Die Bundesrepublik Deutschland als Sozialstaat, 2002; Deutschland den Deutschen?, 2003).

(4) Of course, European development could not be examined only according to this common denominator. It also required a structural review (Wird es einen europäischen Sozialstaat geben?, 2001, 2002; Dimensionen eines sozialen Europa, 2002).

(5) Conversely, the work on globalization was enhanced along comparative and international law lines (Social Insurance and Human Rights, 2002; Seguridade Social e Direitos Humanos, 2002). This was reflected above all by collaboration in research projects launched by the Pontifical Academy of Social Sciences on the "Future of Work" (The Living Conditions of the Unemployed and the Effect of Alternative Social Security Systems, 2003), the "Implications of Globalization" (Globalization, Governance und Knowledge, in: The Governance of Globalization, in print) and "Democracy" (Democracy – Reality and Responsibility, 2001; The State of the Academy's Work on Democracy, 2001). These studies – with those on democracy coming under the particular responsibility of the reporter – stand out very notably through their interdisciplinary character and their worldwide range of experience.

(6) The work on the German Social Code was continued (Das Vorhaben des Sozialgesetzbuches, 2001; Il Sozialgesetzbuch della Repubblica Federale Tedesca, 2001). However, the codification of social benefit law, as it is set forth in the Social Code, was for the first time placed in a comprehensive historical and comparative law perspective (Die Kodifikation des deutschen Sozialrechts in historischer und rechtsvergleichender Sicht,



2001; Polish version, 2001; Greek version, 2002).

(7) With a study on current developments in the law on behalf of persons with disabilities, one of the Institute's longstanding research subjects was readdressed with a view to contemporary knowledge interests and conditions (*Der soziale Rechtsstaat in der Verantwortung für Menschen mit Behinderungen*, 2001). In addition, a number of revisions were undertaken on such individual themes as international social policy and international social law, the goal-oriented principle, the causal principle, solidarity, the insurance principle and the care principle (all in 2002).

III. Events Organized by the Institute



1. Conferences and Workshops

8/9 March 2001:

Junior Research Group seminar:
“The influence of international organizations on national social security law in the European Union – the example of old-age pensions”, Antwerp.

24 April 2001:

Meeting of experts: “Offene Koordinierung” (issues concerning the further development of old-age protection systems in the light of most recent developments at EC level), at the Federal Ministry for Labour and Social Affairs in Berlin, organized by MPI, VDR, BMA.

21 June 2001:

Workshop: “Indikatorenbildung im Bereich Alterssicherung”, at the Federal Ministry for Labour and Social Affairs in Berlin, organized by MPI, VDR, BMA.

11 – 14 July 2001:

German-Turkish seminar: “Der Einfluss des internationalen und supranationalen Rechts auf das türkische und deutsche Arbeits- und Sozialrecht und die Bedeutung des Rechtsvergleichs”, Ringberg Castle, Tegernsee.

17 – 19 September 2001:

German-Japanese conference: “Reform der sozialen Sicherungssysteme in Japan und Deutschland”, at the Japanese-German Centre (JDZB), Berlin.

29 September – 1 October 2001:

Preliminary conference on the project: “Teilhabe behinderter Menschen an der Bürgergesellschaft in Asien und Europa. Eingliederung im Sozial- und Rechtsvergleich”, German University of Administrative Sciences (DHV) Speyer.

9/10 November 2001:

International conference: “Offene Koordinierung der Alterssicherung in der Europäischen Union”, Berlin, organized by VDR, BMA, MPI.

5 – 9 June 2002:

Conference: “Sozialrechtsformen im Kontext europäischer Integration”, in collaboration with the Faculty of Law of the University of Rijeka, Croatia.

1/2 March 2002:

Closing seminar of the Junior Research Group: “Open method of coordination – objectives of European health care policy”, Harnack-Haus, Berlin.

9 July 2002:

Workshop: “Aktuelle Probleme der Alterssicherung in Deutschland unter Berücksichtigung lateinamerikanischer Erfahrungen”, Literaturhaus, Frankfurt/M., organized by MPI/VDR/Hans Böckler Foundation.

8 November 2002:

Farewell lecture by Prof. Dr. Bernd Baron von Maydell: “Sozialrecht – Entwicklungen in Wissenschaft und Praxis der letzten 30 Jahre”, MPG Administrative Headquarters, Munich.

26/27 March 2003:

International conference: “Offene Koordinierung der Alterssicherung in der Europäischen Union”, Berlin, organized by BMA, VDR, MPI.

23 April 2003:

Conference: “Kündigungsschutz und soziale Sicherheit”, MPI for Social Law, Munich.

26 June 2003:

Conference: “Perspektiven der integrativen Beschulung von Kindern mit Behinderung”, MPI for Social Law, Munich.

30 June 2003:

Colloquium: “Reformperspektiven des Sozialrechts”, on the occasion of the 75th birthday of Prof. Dr. Hans F. Zacher, MPI for Social Law, Munich.

21 November 2003:

Inaugural lecture by Prof. Dr. Ulrich Becker, LL.M. (EHI): “Die alternde Gesellschaft – Recht im Wandel”, LMU Munich, organized by the MPI for Social Law and the Faculty of Law of the LMU Munich.

2. Guest Lectures

9 February 2001:

Prof. Dr. Franz von BENDA-BECKMANN, MPI for Social Anthropology, "Legal Pluralism" working group, Halle/Saale: "Soziale Sicherung und Rechtspluralismus: Vergleichende Perspektiven".

23 February 2001:

Dr. Guy MUNDLAK, Faculty of Law and the Department of Labor Studies, Tel-Aviv University: "Changes in the Israel system of social security".

9 April 2001:

Dr. Beatrix KARL, Karl-Franzens-Universität Graz: "Ist das österreichische System der Kostenerstattung in der gesetzlichen Krankenversicherung tatsächlich europarechtskonform?".

28 June 2001:

Prof. Dr. Ulrike DAVY, chair for public law, German and international social law, and comparative law, Faculty of Law, University of Bielefeld: "Arbeitslosigkeit und Staatsangehörigkeit".

18 July 2001:

Prof. Dr. Yasushi IGUCHI, Kwansei Gakuin University, Faculty of Economics, Nishinomoya, Hyogo/Japan: "Möglichkeiten und Bedürfnisse älterer Arbeitnehmer – arbeitsrechtliche und arbeitsökonomische Aspekte einer Arbeitsmarktreform in Japan".

10 September 2001:

PD Dr. Claudia BITTNER, Hofheim, Ts.: "Deutsche Pensionsfonds als Einrichtungen zur betrieblichen Altersversorgung nach europäischem Recht".

21 June 2002:

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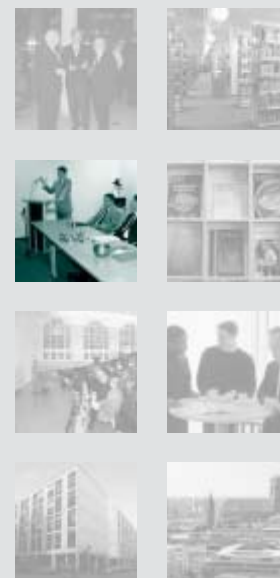
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- Der soziale Bundesstaat, in: Zeitschrift für Sozialhilfe und Sozialgesetzbuch, 42 (2003) 8, p. 452-470.



V. Papers and Lectures



1. Papers

Ulrich BECKER (from 2002):

7 June 2002: "Reformen in der gesetzlichen Krankenversicherung in Deutschland". University of Rijeka, Croatia.

2 – 3 October 2002: "The importance of the European social model in the debate on globalisation". Workshop: "Europe's international social responsibility"; Council of Europe/Forums 2002: "New social responsibility in a globalising world: the role of the state, the market and civil society" (Social Cohesion Development Division, Council of Europe in collaboration with: the Committee for Employment and Social Affairs, European Parliament, Flemish Ministry for Economy, Foreign Policy, Foreign Trade and Housing), Strasbourg.

12 November 2002: round table: "European Legal Forum" (European Research 2002), Brussels.

14 November 2002: "Prävention in Recht und Politik der Europäischen Gemeinschaften". Conference organized by the Institut für Sozialrecht und Sozialpolitik in Europa of the Christian-Albrechts-Universität zu Kiel, the health insurance fund AOK Schleswig-Holstein, and the regional insurance institution LVA Schleswig-Holstein: "Gesundheitl. Prävention im Sozialrecht", 14-15/11/2002, Lübeck.

5 December 2002: "Die rechtlichen Rahmenbedingungen des Übergangs in die Ruhestandsphase". VDR/FNA Conference 2002: "Arbeitsmarkt und Alterssicherung", Steigenberger Parkhotel, Dresden (Radebeul).

6 February 2003: paper presented to the Heidelberger Kreis: "Soziale Sicherheit – Ein Menschenrecht".

20 March 2003: "Zulässigkeit der Arzneimittelrabatte nach materiellem Recht". Marburg Talks on pharmaceutical law: "Staatseingriffe in den Arzneimittelmarkt". 6th symposium of Wissenschaft und Praxis (research unit on pharmaceutical law of the Philipps-Universität Marburg). Philipps-Universität Marburg, 20-21/03/03.

11 April 2003: "Grenzüberschreitende Versicherungsleistungen in der Krankenversicherung – Die juristische Perspektive". 13th conference of the Bund der Versicherten e.V., 10-11/04/03, Bad Bramstedt near Hamburg.

7 – 9 May 2003: 76th Deutscher Fürsorgetag: "Zwischen Versorgung und Eigenverantwortung – Partizipation im Sozialstaat". Prof. Becker on 8/05/03: panel discussion with statements: "Wie kann die soziale Sicherung die Kluft zwischen Arm und Reich schließen?"; Workshop 1.1: "Wer oder was sichert die Systeme der sozialen Sicherung und wie? – Ausblicke auf die Zukunft", Freiburg/Breisgau.

26 May 2003: Max Planck Forum Berlin: "Fortschritte des Alterns – Perspektiven einer älter werdenden Gesellschaft". Panel discussion: "Die Zukunft ist das Altern". Landesvertretung Mecklenburg-Vorpommern, Berlin.

30 June 2003: address at the colloquium "Reformperspektiven des Sozialrechts", on the occasion of the 75th birthday of Prof. Dr. Hans F. Zacher, MPI for Social Law, Munich.

17 – 19 September 2003: 29th comparative law symposium at the TU Dresden. Meeting of the expert group on labour and social law; general report and country report on Germany: "Funktion und rechtliche Ausgestaltung der Zusatzversicherungssysteme bei der Reform der Alterssicherungssysteme".

4 – 10 October 2003: "Statement zur Reform der gesetzlichen Alterssicherung in Deutschland". German-Japanese Seminar, Tokyo.

8 October 2003: "Organisation und Risikostrukturausgleich in der Gesetzlichen Krankenversicherung". Paper held at the National Institute of Population and Social Security Research, Tokyo.

31 October 2003: speech on the occasion of the joint ceremony of the Bavarian Regional Insurance Institutions (Landesversicherungsanstalten): "50 Jahre Selbstverwaltung", Meistersingerhalle, Nuremberg.

3 November 2003: "Lockerung des Mehrbesitzverbots und Verbot des Fremdbesitzes von Apotheken im Lichte des GG und der Grundfreiheiten des EG-Vertrags". Workshop on the amendment of pharmacy law. Research unit for pharmaceutical law of the Philipps-Universität Marburg.

21 November 2003: "Die alternde Gesellschaft – Recht im Wandel". Public inaugural lecture at the Ludwig-Maximilians-Universität, Munich.

27 November 2003: European debates at the Siemens Forum (German-French panel discussion): "Europas Zukunft: wie viel soziale Sicherheit können wir uns leisten?", organized by: Siemens Forum, Institut Français München, and Bayerisch-Französisches Hochschulzentrum.

28/29 November 2003: "Die soziale Dimension des Binnenmarktes". Colloquium: "Die europäische Wirtschaftsverfassung in der Verfassungsreform – Die Bedeutung des Konventsentwurfs für die Wirtschaft", organized by the Europa-Institut Freiburg e.V. in collaboration with the Institute of Public Law, European and Public Law Dept., University of Freiburg, at the "Haus zur Lieben Hand", Freiburg/Breisgau.

4/5 December 2003: "Generationengerechtigkeit als juristischer Begriff und Maßstab". Annual conference held by the Forschungsnetzwerk Alterssicherung (FNA): "Generationengerechtigkeit – Inhalt, Bedeutung und Konsequenzen für die Alterssicherung", Radisson SAS Hotel, Erfurt.

Barbara DARIMONT:

30 June 2003: "Rezeptionen im chinesischen Sozialrecht: Rechtsrezeption und die Suche nach der Lösung 'chinesischer Prägung'". Colloquium: "Refomperspektiven des Sozialrechts", on the occasion of the 75th birthday of Prof. Dr. Hans F. Zacher, MPI for Social Law, Munich.

22 November 2003: "Antworten aus Beijing: Die Sozialpolitik der chinesischen Regierung". Seminar: "Sozialer Sprengstoff in China", Haus der Kirche, Bonn.

Alexander GRASER:

13 February 2001: "Die soziale Dimension der EU – Zum Zielkonflikt von ökonomischer Integration, Wohlfahrtsstaatlichkeit und Subsidiarität". Lecture series, Institute of Sociology, University of Heidelberg.

4 June 2001: "Der nationale Sozialstaat im europäischen Standortwettbewerb". Congress: "Junge Wissenschaft und Wirtschaft", organized by the Hanns Martin Schleyer Foundation on the subject of "Old and New Economy auf dem Weg in eine innovative Symbiose? Dominanz der Prozesse – Flexibilität der Strukturen – Konstanz der ökonomischen Grundregeln", Innsbruck.

12 November 2001: "Alterssicherung in den USA". Study course: "Alterssicherung im internationalen Vergleich", VDR, Erkner near Berlin.

12 February 2002: "Sozialrecht ohne Staat?". Workshop series: "Politik und Recht unter Bedingungen von Globalisierung und Dezentralisierung", within the Humanities Section of the Max Planck Society, Max Planck Project Group on Research on Collective Goods, Bonn.

12 April 2002: "Das internationale Sozialrecht als Forschungsgegenstand des Instituts". Paper presented to the Advisory Board of the Max Planck Institute for Foreign and International Social Law, Munich.

6 – 10 April 2002: "Behindertenrecht in den USA". Conference: "Teilhabe Behindertener Menschen an der Bürgergesellschaft Europa und Asien", organized by the German University of Administrative Sciences, Speyer, and the Max Planck Institute for Foreign and International Social Law, Munich, at the Japanese-German Centre, Berlin.

4 June 2002: "Sozialpolitik in Deutschland und den USA". Two "school lectures" within the scope of the annual meeting of the Max Planck Society, held before secondary school students from the Halle/Saale region.



14 November 2002: "Anspruch und Wirklichkeit aktivierender Arbeitsmarktpolitik". Conference: "Wege aus der Arbeitslosigkeitsfalle? Reformbedarf und Reformperspektiven aktivierender Sozialpolitik für Arbeitslose", organized by the Frankfurter Sozialrechtsforum, J. W. Goethe-Universität Frankfurt/Main.

28 November 2002: "Demokratie? – Konsistenzängste im deutschen Staatsrecht". Workshop series: "Politik und Recht unter Bedingungen von Globalisierung und Dezentralisierung", within the Humanities Section of the Max Planck Society, Max Planck Institute for the Study of Societies, Cologne.

23 April 2003: "Die Vorschläge zur Reform des deutschen Kündigungsschutzes – Anmerkungen aus rechtsvergleichender Perspektive". Conference: "Kündigungsschutz und soziale Sicherheit – Überschneidungen von Bestandsschutz, Abfindungen und Arbeitslosenversicherung", MPI for Social Law, Munich.

2/3 June 2003: "Rechtliche Rahmenbedingungen des Arbeitsmarkts in Deutschland und den USA". Two "school lectures" within the scope of the annual meeting of the Max Planck Society, held before secondary school students from Hamburg.

26 June 2003: "Die schulische Integration von Kindern mit Behinderung aus rechtlicher Perspektive". Conference: "Perspektiven der integrativen Beschulung von Kindern mit Behinderung", MPI for Social Law, Munich.

30 June 2003: "Zur Fragmentierung der Mindestsicherung". Colloquium on the occasion of the 75th birthday of Prof. Dr. Hans F. Zacher, MPI for Social Law, Munich.

12 September 2003: "Recent Developments in the System of Social Security in the US". Seminar: "Sozialpolitik und Reform des sozialen Sicherheitssystems", Konrad Adenauer Foundation, Rio de Janeiro.

15 September 2003: "Aktuelle Entwicklungen in Verfassungsrecht und Grundrechtsschutz in der EU". Guest paper within the frame of the lecture "Verfassungsrecht", by Prof. Sarlet, Pontificia Universidade Católica do Rio Grande do Sul, Porto Alegre/Brazil.

16 September 2003: "Föderalismus, Dezentralisierung und soziale Rechte". Seminário Internacional de Direitos Fundamentais, Pontificia Universidade Católica do Rio Grande do Sul, Porto Alegre/Brazil.

17 September 2003: "Sozialpolitik und das System der sozialen Sicherheit in den USA". Conference: "Sozialpolitik und Reform des sozialen Sicherheitssystems – Die Erfahrungen in den Vereinigten Staaten von Amerika und Europa", Federal University of Santa Catarina, Florianópolis/Brazil.

19 September 2003: "Social Policy and the System of Social Security in the US". International colloquium: "Protecao Social na Uniao Europeia, Estados Unidos e Brasil", Pontificia Universidade Católica de Sao Paulo, Brazil.

Eva-Maria HOHNERLEIN:

12 July 2001: "Zur Bedeutung des bilateralen Abkommensrechts und des europäischen Assoziationsrechts aus deutscher Sicht unter besonderer Berücksichtigung der Familienleistungen". German-Turkish conference on the influence of international law on Turkish and German labour and social law, Ringberg Castle/Tegernsee.

18 September 2001: "Eigenständige und abgeleitete soziale Sicherung der Frauen in Deutschland vor und nach der Reform von 2001". German-Japanese symposium: "Reform der sozialen Sicherungssysteme in Japan und Deutschland", Berlin.

24 November 2001: "Deutsch-brasilianische Adoptionsfälle – Theorie und Praxis". Annual meeting of the Deutsch-Brasilianische Juristenvereinigung e.V., Dresden.

8 April 2002: "Behindertenrecht und -politik in Italien". International conference at the Japanese-German Centre, Berlin.

9 May 2002: “A proteção internacional dos direitos fundamentais sociais na Europa: A Carta Social e a Convenção dos Direitos Humanos do Conselho da Europa”. Catholic University of Rio Grande do Sul – PUC, Porto Alegre/Brazil.

10 May 2002: “Requisitos para la adopción de menores en el derecho alemán”. Richterakademie of Rio Grande do Sul, Porto Alegre/Brazil.

7 June 2002: “Rentenreformen in Europa und Gleichstellung von Männern und Frauen Rechtsfakultät”, University of Rijeka, Croatia.

8 November 2002: “Internationale Adoption aus deutscher Sicht – neue Regelungen zur internationalen Adoptionsvermittlung von Kindern”. 10th congress of SEJUBRA (Brasilianisch-Deutsche Gesellschaft f. Juristische Studien), Fortaleza/Brazil.

Otto KAUFMANN:

10 October 2001: “Problèmes et reformes dans l’assurance allemande”. INPC, expert group on French supplementary insurance institutions, MPI for Social Law, Munich.

26 October 2001: “La concurrence dans l’assurance maladie allemande”. Institut de l’Ouest, University of Rennes I, Rennes.

29 October 2001: “Comparaison des assurances sociales allemande et française: Assurance maladie, protection en cas de vieillesse, chômage”. University of Poitiers, IPAG, Poitiers.

30 October 2001: “Tendance et réformes dans l’assurance allemande”. URSSAF Vienne, Poitiers.

11 December 2001: “La protection sociale et les nouvelles formes d’emploi”. European Commission/IPSE, Brussels.

26 April 2002: “Arbeitszeitflexibilisierung im deutschen Arbeitsrecht”. German-Turkish conference: “Flexibilisierung des Arbeitsrechts”, Antalya.

24 May 2002: “Osterweiterung der EU – Alterssicherung/L’Elargissement de l’UE”. IPSE/European Commission, Madrid.

14 December 2002: “Les institutions de protection sociale et la citoyenneté de l’Union européenne”. Presentation of paper and chairmanship at the conference held by IPSE/European Commission on the EU’s enlargement to the east, Copenhagen.

24 February 2003: “La protection sociale dans l’espace communautaire – droit communautaire et droits nationaux”. Groupe éthique, Université Marc Bloch, Strasbourg.

27 June 2003: “Europäischer Betriebsrat und die sozialen Belange”. Robert Schuman University, Strasbourg.

30 June 2003: “Reformbestrebungen”. Colloquium on the occasion of the 75th birthday of Prof. Dr. Hans F. Zacher, MPI for Social Law, Munich.

15 October 2003: “Soziale Sicherheit in Frankreich”. Robert Schuman University, Strasbourg.

18 November 2003: seminar paper: “Die Sicherung im Alter in Deutschland”. CFDT, Strasbourg. A similar paper was held at the Robert Schuman University, Strasbourg.

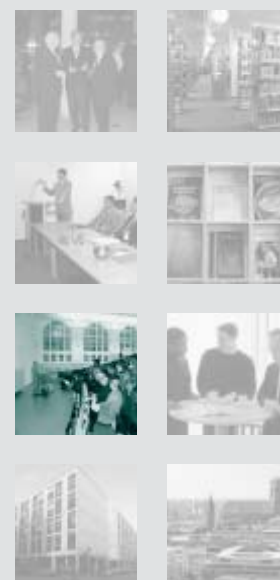
18 December 2003: “Beamtenstatus, Arbeitnehmer und soziale Sicherung im öffentlichen Dienst”. Robert Schuman University, Strasbourg.

Peter A. KÖHLER:

22 October 2001: “Die Rentenreform in Schweden”. Friedrich Ebert Foundation, Berlin.

12/13 September 2002: “Die Rentenreform in Schweden”. Nordic social law symposium organized by the Higher Social Court (LSG) Schleswig and the health insurance fund AOK Lübeck, Lübeck.

4 April 2003: “Alterssicherung in Europa – Probleme und Reformen”. CDU Frauen-Union, Berlin.



13 May 2003: "Europäische Strategien für die Alterssicherung". Policy information presented by the Arbeitsgemeinschaft der Betrieblichen Alterssicherung, Bonn.

19 September 2003: "Zusatzsicherung in Schweden". 29th Comparative Law Symposium at the TU Dresden, meeting of the expert group on labour and social law, Dresden.

30 September/1 October 2003: "Alterssicherung in Europa". 4th meeting of practitioners from the Supplementary Pension Fund of the Construction Industry (VvaG), SOKA/Bau, Wiesbaden.

Bernd Baron VON MAYDELL:

12 January 2001: "Wettbewerb der Systeme oder Fortbestand des Territorialprinzips". Symposium of the Gesellschaft für Recht und Politik im Gesundheitswesen e.V. (GRPG branch office, Widenmayerstr. 29, 80538 Munich), Wiesbaden.

24/25 January 2001: "Social security transformation: preconditions, pitfalls, policy-making and processes". Seminar on transformation (FES/Prof. Marius Olivier), Johannesburg/South Africa.

31 January 2001: "Entwicklungstendenzen des deutschen Gesundheitssystems im Rahmen der Europäischen Union". Europe Forum of the health insurance fund AOK Bayern ("Europa – Chance oder Risiko für die Versicherten der GKV"), European Patent Office, Munich. Ms for publication to AOK Bayern.

8/9 March 2001: "The influence of international organizations on national social security law in the European Union: The example of old-age pensions". Seminar held by the Junior Research Group under Yves Jorens, Antwerp (chaired on 8 March by Prof. v. Maydell).

16 March 2001: "Staatliche, freigeinnützige und gewinnorientierte Institutionen der Gesundheits- und Pflegeversorgung sowie der Sozialfürsorge in Europa". Colloquium: "Die Zukunft der öffentlichen Unternehmen zur Daseinsvorsorge – eine europäische Diskussion", organized by the Schader Foundation, Darmstadt, Reinhartshausen Castle, Eltville.

18/19 January 2002: "Rechtliche Vorgaben für die Absicherung des Lebensstandards". Kick-off workshop of the project group "Lebensstandards" of the Europäische Akademie zur Erforschung von Folgen wissenschaftlich-technischer Entwicklungen, St. Gallen.

23 January 2002: "Offene Koordinierung als Indikationsstrategie". Europäisches Zentrum für Staatswissenschaften und Staatspraxis, Berlin.

13 February 2002: "Für ein Europa der sozialen Gerechtigkeit – Voraussetzungen, Chancen, Risiken". Sozialpolitischer Aschermittwoch der Kirchen in der Evangelischen Kreuzkirche in Essen.

1/2 March 2002: "Open method of coordination – objectives of European healthcare policy". Seminar of the Junior Research Group, Harnack-Haus, Berlin.

18 March 2002: "Aus der Arbeit des ILO-Sachverständigen-Ausschusses", University of Ghent.

19 March 2002: meeting of the core group of the project "Europäische Sozialpolitik" (ESP), Europäische Akademie zur Erforschung von Folgen wissenschaftlich-technischer Entwicklungen, Bad Neuenahr-Ahrweiler.

6 – 10 April 2002: general introduction: “Grundlagen und zentrale Fragestellungen des Forschungsprojekts”; chair in the session: “Status quo und Perspektiven des Rechts und der Politik für Menschen mit Behinderung”. International conference: “Teilhabe von Menschen mit Behinderung an der Bürgergesellschaft in Asien und Europa: Eingliederung im Sozial- und Rechtsvergleich”, at the Japanese-German Centre, Berlin (organization: MPI for Social Law, German University of Administrative Sciences, Speyer, and Japanese-German Centre, Berlin).

7 April 2002: “Die Eingliederung behinderter Menschen als Gegenstand vergleichender rechtswissenschaftlicher Forschung”. German-Japanese conference on the integration of persons with disabilities in society.

24 – 27 April 2002: participation in the seminar: “Flexibilisierung des Arbeitsrechts”, organized by the Turkish and German associations of the IGRAS, Antalya.

5 – 9 June 2002: “Sozialreformen – Möglichkeiten und Probleme”. German-Croatian seminar at the University of Rijeka.

7 – 8 June 2002: “Sozialreform – Herausforderungen und Probleme – insbesondere im Gesundheitssystem”. Conference in Rijeka/Croatia: “Alterssicherung und Gesundheitswesen – nationale (Re)Formen – im Kontext europäische Integration”, organized by the Faculty of Law (European law/social law) of the University of Rijeka and the Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit e.V. (IRZ).

18 June 2002: impulse paper: “Utopie Weltsozialstaat? Internationale Zusammenarbeit im internationalen Wettbewerb”. Workshop: “Internationale Sozialpolitik im Kontext von internationalem Wettbewerb”, Eschborner Fachtag in Eschborn, organized by the GTZ; sectoral project on health insurance in developing countries on behalf of the Federal Association of the AOK (AOK-Bundesverband), Bonn.

30 August 2002: “Kapitalbildung in der Sozialversicherung”. Club de Genève, Geneva.

12 September – 11 October 2002: lecture trip to Japan, with papers held in Tokyo (Ministry of Social Affairs), Matsumoto (University) and Yamaguchi (University).

14 October 2002: VDR anniversary symposium on behalf of Professor Ruland: “Alterssicherung und Familie”.

6 – 12 January 2003: “Alterssicherung im öffentlichen Dienst” and “Altersversicherung und Demographie”. GTZ seminar, Beijing.

24 January 2003: “Europäische Sozialpolitik”. Research colloquium held by the Schering Company, Berlin.

2 July 2003: “Daseinsvorsorge zwischen Staat und Markt, insbesondere zur sozialpolitischen Relevanz dieser Fragestellung in der Europäischen Union”. Seminar for practitioners of labour law, University of Bonn.

4 – 10 October 2003: “Reform der gesetzlichen Alterssicherung in Deutschland”. German-Japanese seminar, Tokyo.

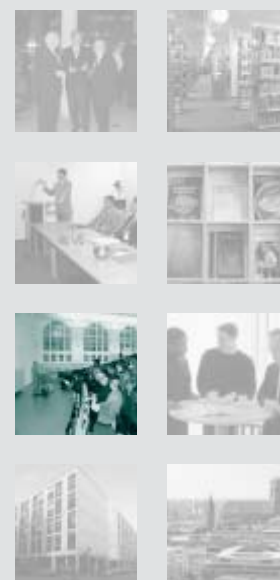
20 – 23 October 2003: “Wandel der industriellen Beziehungen”. Anniversary conference of the Turkish Metal Employers’ Federation, Antalya.

18 November 2003: “Reformen des Sozialstaats im Europäischen Vergleich”. Juristische Studiengesellschaft, Hanover.

Hans-Joachim REINHARD:

20 May 2001: “Reform der Alterssicherungssysteme im internationalen Vergleich”. 17th meeting of social court judges: Sozialrichtertagschlag, Tabarz.

22 May 2001: “Demographische Entwicklung und Alterssicherung im Vergleich”. MPI for Social Law, Munich.



7 June 2001: "Übergangsregelungen beim Beitritt der MOE-Staaten im Bereich der Arbeitnehmerfreizügigkeit". Verband Deutscher Rentenversicherungsträger, Würzburg.

8 June 2001: "Das Verfahren der offenen Koordinierung – Sozialpolitische Kompetenzverlagerung durch die Hintertür". Max Planck work group: "Recht und Politik unter den Bedingungen der Globalisierung und Dezentralisierung", Frankfurt/Main.

11 June 2001: "Réforme des pensions de retraite en Allemagne". Observatoire de retraites, Paris.

25 September 2001: "Sozialrechtliche Folgen der Osterweiterung der Europäischen Union". Seminar organized by the VDR, Würzburg.

26 September 2001: "Alterssicherungssysteme im internationalen Vergleich". Meeting of social court judges: Sozialrichtertagung, Königslutter.

10 October 2001: "Réforme de la Sécurité Sociale en Allemagne". IPSE, München.

20 October 2001: "Grundprinzipien der Rentenversicherung in Deutschland". KAB, Roding.

31 October 2001: "Reforma de la pension de vejez en Alemania". Universidad Pompeu Fabra, Barcelona.

2 – 3 November 2001: "Computer, Information Technology and Privacy for Workers – German Report". Universidad Oberta de Catalunya, Barcelona.

10 December 2001: "Der Pensionsfonds – Grenzen und Möglichkeiten der neuen Durchführungswege". AiB, Hanover.

14 March 2002: "A compensação de amparo na Alemanha". Faculdade de Direito da Universidade Milton Campos, Belo Horizonte.

8 May 2002: "Soziale Grundrechte in Europa". Pontfícia Universidade Católica do Rio Grande do Sol PUC, Porto Alegre.

7 June 2002: "Rentenreform in Deutschland". University of Rijeka, Croatia.

7 October 2002: "Splitting of pensions credits under German law and other means to improve old age pensions for women". National Women's University of Japan, Tokyo.

11 October 2002: "Pension Reform in Germany: Is Privatisation a Way to Cope with The Demographic Crisis?". Tokyo University, Tokyo.

3 December 2002: "La fonction publique en Espagne". Université Robert Schuman Institut de Travail, Strasbourg.

Bernd SCHULTE:

25 January 2001: "Ende der Wehrpflicht – das Ende jeder Pflicht? Artikel 12 (2) des Grundgesetzes und seine Kernaussagen". Expert meeting of the Landesarbeitsgemeinschaft der öffentlichen und freien Wohlfahrtspflege in Bayern: "Weder umsonst noch kostenlos – zur Zukunft freiwilliger sozialer Arbeit", Bavarian State Ministry of Labour and Social Welfare, Family Affairs, Women and Health, Munich.

23 May 2001: statement: "Europa's Gesellschaftsmodell entwickeln – Solidarität im Wettbewerb sichern". Expert dialogue on European policy in collaboration with the Federal Chancellery and the Bertelsmann Foundation, Berlin.

20 June 2001: "Europatauglichkeit des deutschen Gesundheitswesens". Wirtschaftsrat der CDU e.V., Berlin.

13 July 2001: "Der 'Acquis Communautaire' im Arbeits- und Sozialrecht. Der Stand des europäischen Arbeits- und Sozialrechts – Überblick". German-Turkish conference, Ringberg Castle, Tegernsee.

7 October 2001: "Issues following the implementation of the long-term care insurance". Japanese-German Symposium on Social Security Systems, Chiba.

22/23 November 2001: "Koordinierungsregelungen im Bereich der Renten einschließlich der Vorruhestandsleistungen". Conference: "Soziale Sicherheit der Grenzgänger in Europa", organized by the Federal Ministry for Labour and Social Affairs in collaboration with the Gesellschaft für Versicherungswissenschaft und -gestaltung e.V. (GVG), supported by the European Commission, Aachen.

March 2002: "Flexicurity in an International Perspective". International conference: "Flexibility and Social Protection", organized by the Spanish Ministry of Labour and Social Affairs with the support of the European Commission, Toledo.

6 June 2002: "Die Leistungsfähigkeit des Sozialstaats – aus rechtswissenschaftlicher Sicht". Symposium: "Leistungsfähigkeit von Sozialstaaten", Arnoldsheim.

10 June 2002: final statement following the panel discussion at the expert meeting: "Europäische Verfassung und soziales Recht – ein Beitrag zum EU-Konvent", organized by the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), Berlin.

10 September 2002: "Age- and Gender-Specific Legal Issues in Germany". International conference: "Individual Responsibility vs. Social Solidarity – Current Economic and Legal Issues Concerning Social Policy in Japan and Germany", organized by the University of Tsukuba and the Franz von Sibold Foundation/Deutsches Institut für Japan-Studien, Tokyo, at the International Conference Center of the Waseda University, Tokyo.

13 September 2002: "Reform of Guardianship Law ('Betreuungsrecht' – Care and Assistance Law) in Germany, Leading Principles and Experiences". Symposium: "Betreuungsrecht in Deutschland und Japan", Legal Center, Tokyo.

23 September 2002: "Community co-ordination for the self-employed from the perspective of candidate CEE States social security schemes". Round table debate, Athens.

10 October 2002: "Die Bedeutung der Verordnung 1612/68 und der Verordnung 1408/71". Seminar: "Zum Status des Berufspendlers", Europäische Rechtsakademie (ERA), Trier.

23 October 2002: "Europa und die soziale Arbeit – Herausforderungen und Chancen". CONSOZIAL 2002, 4th annual fair and congress on the social market in Germany: "Soziale Arbeit im gesellschaftlichen Wandel – Ziele, Inhalte und Strategien", Nuremberg.

5/6 November 2002: "Europarechtliche Rechtsvorgaben und die Rechtsprechung des Europäischen Gerichtshofs". EUROFORUM conference: "Arzneimittel-Handel", Düsseldorf.

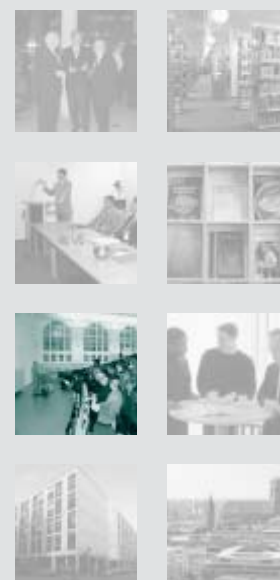
12 – 14 November 2002: "Zur Europäischen Entwicklung: 'Flexicurity' – Arbeitsflexibilität und soziale Sicherung". Japanese-Austrian symposium: "Reorganisation of Legal Protection for dependent Workers", organized by the universities of Kyoto and Vienna, Kyoto.

14 November 2002: "Europäische Union zwischen Erweiterung und Integration". Centre for Social Policy of the University of Bremen, regular meeting series: "Europäische Union zwischen Erweiterung und Integration", WS 2001/2002, Bremen.

15 November 2002: "Europäische Sozialpolitik – Politik ohne politisches Mandat?". 75th Deutsche Fürsorgetag: "Europa sozial gestalten", Hamburg.

19 November 2002: "So nah und doch so fern – ein einheitliches soziales Europa". Diözese-Caritasverband für das Erzbistum Köln e.V., Cologne.

4 December 2002: "Der Europäische Binnenmarkt und das Gesundheitswesen – Europäische Rechtsprechung und stationärer Sektor". DKG Forum on Europe: "Chancen für die Krankenhäuser im Binnenmarkt", organized by the Deutsche Krankenhausgesellschaft e.V. (DKG), Berlin.



6 February 2003: "Vom Vertrag von Rom zum Vertrag von Nizza – Zur Entwicklung der Europäischen Sozialpolitik". Seminar of the European Works Councils, Überlingen.

5 April 2003: "Die neue Askese – Herausforderungen in der Sozialstaatskrise". Conference: "Der Sozialstaat – Besser oder schlechter als sein Ruf?", organized by the Evangelische Akademie Tutzing, Rothenburg ob der Tauber.

5 – 7 May 2003: "Migration in einer alternden Gesellschaft – Überlegungen aus juristischer Sicht". Discussion contribution for the 4th international research conference on social security: "Soziale Sicherheit in einer Gesellschaft des langen Lebens", organized by International Social Security Association, Antwerp.

8 May 2003: "Freizügigkeit in der Europäischen Union: Auswirkungen auf Soziale Sicherung im Gesundheitswesen vor dem Hintergrund der Erweiterung". 5th Europatag, held by the Gesellschaft für Versicherungswissenschaft und -gestaltung e.V. (GVG), Berlin.

22 May 2003: "Strategic Legislation as a Means of the Community Method in the Social Inclusion Framework". International conference: "The Modernization of the European Social Model & E.U. Policies and Instruments", organized by the Greek Ministry for Labour and Social Security with the support of the European Commission under Workshop 2: "Policies to Combat Social Exclusion: Interaction between national and EU levels via the OMC", Ioannina (Greece).

31 May 2003: "Der europäische Weg. Herausforderung an die Sozialpolitik". First Ecumenical Kirchentag, Berlin.

4 June 2003: "Kartell-, vergabe-, förder- und arbeitsrechtliche Grenzen". Seminar: "Überleben im Wettbewerb", organized by the Institute for Health Sciences of the Technical University, Berlin.

24 June 2003: "Arbeits- und sozialrechtliche Maßnahmen der Gemeinschaft zur Bekämpfung der Arbeitslosigkeit in Europa". Summer Conference of the Graduate College: "Die Zukunft des Europäischen Sozialmodells", Georg August University, Göttingen.

25 June 2003: "Das Institutionelle System der Europäischen Union" and "Die Rechtsordnung der Europäischen Gemeinschaften und ihre Einwirkung auf die Rechtsordnungen der Mitgliedstaaten". Expert meeting: "Europäisches Arbeitsrecht in der Praxis", held by the Europäische Rechtsakademie Trier (ERA), Trier.

11 July 2003: "Die Entwicklung der Sozialpolitik in der Europäischen Union". Conference: "Europäisches Sozialmodell: Nationaler und transnationaler Sozialstaat", organized by the Wissenschaftszentrum Berlin (WZB), Berlin.

15 July 2003: "The Open Method of Coordination – A new political strategy in the field of social protection". Roundtable discussion of the Bertelsmann Foundation: "Migration and Integration in an Enlarged European Union – Towards an Operational Approach for Integration in Europe", European Commission/DG Justice and Home Affairs, Brussels.

27 July 2003: "Nochmals: Wird es einen europäischen Sozialstaat geben?". Symposium on the occasion of the 75th birthday of Prof. Hans F. Zacher, MPI for Social Law, Munich.

2 September 2003: "Panel Discussion Part I: Social Services of General Interest". Conference: "Social Services as Services of General Interest in the EU – Objectives, Responsibilities and Conditions", organized by the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and the Observatory for the Development of Social Services in Europe, Berlin.

3 – 5 September 2003: "Die armen Familien und der Arbeitsmarkt". Educational programme organized by the Rumanian Ministry for Labour and Solidarity in collaboration with the Hanns Seidel Foundation, Munich/Mangalia (Rumania).

14 September 2003: "Aktuelle Herausforderungen für die Sozialpolitik in Deutschland und Europa – am Beispiel der Alterssicherung". Expert meeting: "Neue Entwicklungen der Sozialpolitik", organized by the Konrad Adenauer Foundation, Rio de Janeiro.

16 September 2003: "Herausforderungen für die Sozialschutzsysteme und anstehende Reformen". Seminario Internacional de Direitos Fundamentais Justica Social, Pontificia Universidade Catolica do Rio Grande do Sul/Faculdade de Direito Porto Alegre, Brazil.

17 September 2003: "Sozialpolitik und Systeme der sozialen Sicherheit in den EU-Staaten". Conference: "Sozialpolitik und Reform der sozialen Sicherungssysteme – Die Erfahrungen in den Vereinigten Staaten und Europa", organized by the Konrad Adenauer Foundation, Federal University of Santa Catarina Florianopolis, Brazil.

19 September 2003: "Sozialpolitik und soziale Sicherheit in der Europäischen Union". International colloquium: "Sozialschutz in der Europäischen Union, den Vereinigten Staaten und Brasilien", Pontificia Universidade Catolica de Sao Paulo, Brazil.

9 October 2003: "Europarechtliche Aspekte der Bürgerversicherung". Conference: "Bürgerversicherung", organized by the Bavarian State Ministry of Labour and Social Welfare, Family Affairs, Women and Health, Munich.

11 November 2003: "Einführung in das Europäische Sozialrecht". Conference 32 2003: "Europäisches Sozialrecht", organized by the Deutsche Richterakademie, Wustrau.

12 November 2003: "Europäische Wirtschafts- und Sozialpolitik – Was ändert sich mit dem Verfassungsvertrag?". DGB DIALOG NRW: "Auf dem Weg zu einer europäischen Verfassung", Düsseldorf.

4 December 2003: "Die Durchführung der Verordnung (EWG) Nr. 1408/71 in den EU-Staaten unter besonderer Berücksichtigung der nationalen und Europäischen Gerichtsbarkeit". Report to the European Commission/Directorate-General for Labour and Social Affairs on behalf of the European Observatory for the Social Security of Migrant Workers in the European Union, Brussels.

9 December 2003: "Der Entwurf eines Europäischen Verfassungsvertrages durch den Konvent für die Zukunft Europas: Auswirkungen auf die Sozialpolitik". Committee on International Affairs of the German Association for Public and Private Welfare (German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth), Berlin.

Hans F. ZACHER (a selection):

13 January 2001: "Die europäische Sozialpolitik als Beispiel für den institutionellen Irrweg der Europäischen Gemeinschaften". Sabbatina, Munich (continued on 2/6/2001).

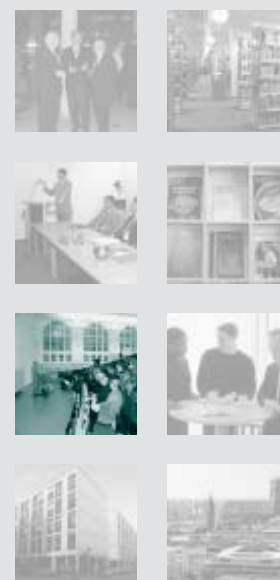
5 February 2001: "Die Dilemmata des Wohlfahrtsstaates". Bavarian Academy of Sciences and Humanities, Munich.

8 May 2001: "Der Sozialstaat an der Wende zum neuen Jahrtausend". Kaufmannskasino, Munich.

29 January 2002: "Wird es einen europäischen Sozialstaat geben?". Institute for Public Law of the Albert-Ludwigs-Universität, Freiburg.

8/9 March 2002: "Dimensionen eines sozialen Europa". Conference of the Catholic Academy in Bavaria: "Europas Erbe – Europas Zukunft: demokratisch und sozial. Perspektiven für ein bürgernahes Europa", Nuremberg.

19 July 2002: formal address at the presentation of the commemorative publication to Prof. v. Maydell for his 68th birthday, Munich.



28 September 2002: formal address on the occasion of the 60th birthday of Prof. Ruland, Monastery Eberbach.

14 October 2002: address at the ceremony held by the VDR on the 60th birthday of Franz Ruland, Berlin.

15 October 2002: address (on behalf of the MPG president) at the ceremony for the conferral of emeritus status on Prof. Frowein and the appointment of Prof. v. Bogdandy as director, MPI for Comparative Public Law and International Law, Heidelberg.

7 December 2002: formal address: "Deutschland den Deutschen? Die wechselvolle Geschichte des sozialen Einschlusses im Deutschland des 19. und 20. Jahrhunderts". Annual meeting of the Bavarian Academy of Sciences and Humanities, Munich.

2 – 6 May 2003: "Globalisierung, Governance und Wissen". IXth Plenary Meeting of the Pontifical Academy of Social Sciences, Vatican City.

30 June 2003: address at the reception of the Academic Colloquium held on the occasion of the 75th birthday of Hans F. Zacher, MPI for Social Law, Munich.

8 July 2003: address at the dinner given by the MPG president in honour of Hans F. Zacher on his the 75th birthday, Präsidentenhaus, Munich.

2. Lectures

Ulrich BECKER (from 2002):

WS 2002/2003: “Übungen im Öffentlichen Recht für Anfänger” (2 h), University of Regensburg.

WS 2002/2003: lecture on social law: “Grundlagen und Sozialversicherungsrecht” (2 h), LMU Munich.

SS 2003: public law seminar: “Rechtsfragen der Zuwanderung nach Deutschland und Europa” (2 h), LMU Munich.

WS 2003/2004: lecture on administrative law – Verwaltungsrecht II (local government law) (2 h), LMU Munich.

WS 2003/2004: lecture on social law: “Grundlagen und Sozialversicherungsrecht” (2 h), LMU Munich.

WS 2003/04: (with Alexander Graser) public law seminar: “Dimensionen rechtlicher Gleichheit – dogmatische, vergleichende und theoretische Aspekte” (2 h), LMU Munich.

2003/2004: course: “EC Social Security Law (except coordination)”, under the “European Master in Social Security” programme, Catholic University Leuven, Belgium.

10 March 2003: guest lecture at Ghent University, Faculty of Law, Department of Social Law: “Basic economic freedoms and public health services in Europe”.

27 October 2003: guest lectures at the University of Ljubljana, Slovenia:
1) “Introduction to German social insurance law”;
2) “Recent developments in old age pensions”;
3) “Recent developments in health insurance”.

Carlos L. COTA:

2001 – 2003: “Basics in Legal English”, LMU Munich, Faculty of Law (2 h).

Alexander GRASER:

WS 2001/02, SS 2002, WS 2002/03, SS 2003 (2 h): “Arbeitsgemeinschaft im Öffentlichen Recht”, LMU Munich.

WS 2003/04: (with Prof. Becker) public law seminar: “Dimensionen rechtlicher Gleichheit”, LMU Munich.

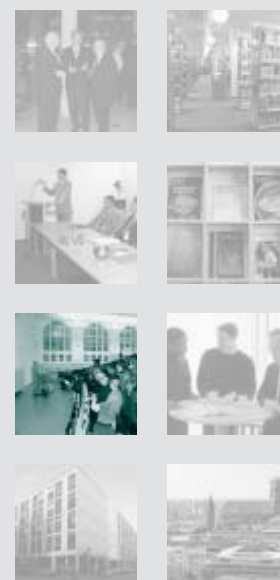
Andreas HÄNLEIN (until 2002):

WS 2000/2001: deputy C 3 professorship on civil law, LMU Munich.

SS 2001: deputy C 4 professorship on civil law, LMU Munich.

WS 2001/2002: lecturer at the University of Freiburg/Breisgau.

SS 2002: professorship in the field of economic, labour and social law, Faculty of Economics, University of Kassel.



Otto KAUFMANN:

2001 – 2003: seminars on German, French and European labour and social law, Institut de travail, Université Robert Schuman, Strasbourg.

2001 – 2003: DEA (Diplôme d'études approfondies), Licence and Magistère franco-allemand de droit des affaires: European social law, German labour and social law, Faculté de droit, Université Robert Schuman, Strasbourg.

December 2001 – 2003; February 2003: lecture on German social law in DESS (Diplôme d'études supérieures spécialisées) de protection sociale (8 h), Université Rennes I, Rennes.

8 April 2003: Les retraites en droit comparé, FGTE, Université Robert Schuman, Strasbourg.

Bernd Baron VON MAYDELL:

25 May 2001: lecture (6 h) on "Social Security Law (Social Law) of the European Union", under the post-graduate programme on European Community law at the Faculty of Law in Rijeka, Croatia.

2 June 2001: lecture under a seminar organized by FES in Istanbul and TÜSES (Turkish Foundation for Social, Economic and Political Research): "Soziale Sicherheitssysteme im Jahre 2000: Probleme und Lösungsalternativen", Hotel Dedeman, Esentepe.

2001/2002: guest professorship at the University of Antwerp: lectures on international European labour and social law.

Angelika NUSSBERGER (until 2001):

2001: teaching assignment for Russian law, LMU Munich.

Hans-Joachim REINHARD:

2003: lectures on social law (employment promotion law, German Social Code [SGB] III); state and constitutional law; custodial care, guardianship, adoption and long-term care law, University of Applied Sciences, Fulda.

VI. Grantees and Guests



1. Grantees

1 April – 30 September 2001:

Prof. Yasushi IGUCHI, Kwansei Gakuin University, Nishinomiya/Japan.

1 June – 30 September 2001:

Jana CAPEKOVA, Faculty of Law, University of Trnava, Chair for Labour and Social Law, Slovak Republic.

11 July – 30 September 2001:

Prof. Dr. Ali SÖZER, DEÜ.İktisadi ve İdari Bilimler Fakültesi, Buca/Izmir/Turkey.

10 August – 22 September 2001:

Prof. Kotaro TANAKA, Yamaguchi Prefectural University, Faculty of Social Welfare, Yamaguchi/Japan.

17 September 2001 – 28 February 2002:

Jing CHEN, Associate Researcher, Institute for Labour Science Studies, Ministry of Labour and Social Security, Peking/China.

5 November – 10 November 2001:

George MPEDI, Rand Afrikaans University, Auckland Park/South Africa.

15 January – 28 February 2002:

Grega STRBAN, Univerza v Ljubljani, Pravna Fakulteta, Ljubljana/Slovenia.

1 February – 31 March 2002:

Mag. Alpay HEKIMLER, University of Istanbul, İktisat Fakültesi, Istanbul/Turkey.

4 February – 4 March 2002:

Dr. Nada BODIROGA-VUKOBRAT, University of Rijeka, Pravi Fakultet, Rijeka/Croatia.

1 April – 31 July 2002:

Prof. Dr. jur. Miyoko MOTOZAWA, University of Tsukuba, Institute of Social Science, Tsukuba/Japan.

1 July – 31 August 2002:

Professor Dr. jur. Makoto ARAI, LL.M., Gakuen Nishimachi, Tokyo/Japan.

2 July – 21 September 2003:

Prof. Yan Yuan CHENG, Assistant Professor, University of Peking, China.

1 March – 31 March 2003:

Grega STRBAN, Univerza v Ljubljani, Pravna Fakulteta, Ljubljana/Slovenia.

23 June – 11 July 2003:

Dr. Peter HERRMANN, European Social, Organisational and Science Consultancy – ESOSC The Jasnaja Poljana Clonmoyle Aghabullogue Co. Cork, Ireland and University College Cork, Dept. of Applied Social Studies, Cork, Co. Cork/Ireland.

2. Guests

2001

26 October 1999 – 23 August 2002:

Dr. Beatrix KARL, Institute for Labour Law and Social Law, Karl-Franzens-Universität, Graz/Austria. Work on habilitation thesis: “Der Zusammenhang zwischen dem europäischen Wettbewerbsrecht sowie der Dienstleistungs- und Warenverkehrsfreiheit in Europa einerseits und nationaler Gesundheitspolitik andererseits” (The interrelationship between European constitutional law, as well as the freedom to provide services and the free movement of goods in Europe, on the one hand, and national health policy, on the other).

1 September 2000 – 31 March 2001:

Dr. Hardy LANDOLT, Glarus/Switzerland. Research on the invalidity law of European countries and the EU.

1 January – 24 March 2001:

Nuria PUMAR BELTRÁN, Universidad Pompeu Fabra, Facultad de Dret, Barcelona/ Spain. Research subject: active labour market policy in Europe and its effects on unemployment insurance in EU member states.

2 April 2001 – 31 March 2002:

Prof. Dr. Yasushi IGUCHI, Faculty of Economics, Kwansei Gakuin University, Nishinomiya/Japan. Research subjects:
1) Effectiveness of employment policy as a policy mix in Germany and Japan. Attempts to assess expenditure and effects of relevant measures, including social benefits;
2) social insurance and unemployment: reciprocal effects, their instruments and reform proposals for Germany and Japan;
3) comparison on industrial restructuring in Germany and Japan, and the consequences for the labour market in the 1990s.

1 June – 30 September 2001:

Mgr. Jana CAPEKOVA, Faculty of Law, University of Trnava, Chair for Labour and Social Law, Slovak Republic. Research subject: “Das verfassungsrechtliche Sozialstaatsprinzip in der Bundesrepublik Deutschland – Bedeutung der deutschen Erfahrungen für die Slowakei” (The constitutional social state principle in the Federal Republic of Germany – significance of German experience for Slovakia).

8 June – 16 August 2001:

Prof. Dr. Kwang-Seok CHEON, Hallym University, Department of Law, Kangwondo/Korea. Research subject: “Wachstum und Anpassung des Sozialrechts bei der Gestaltung des Sozialstaates in der Republik Korea” (Growth and adaptation of social law in structuring the social state in the Republic of Korea), or put differently: “Forschung auf dem Gebiet internationaler Standards des Sozialrechts und Koordinierung des Sozialrechts mit Blick auf die Erfordernisse in der Republik Korea” (Research in the field of international social law standards and coordination of social law with a view to requirements in the Republic of Korea).

9 – 27 July 2001:

Dr. Ingo SARLET, Professor for Constitutional law and Fundamental Rights Theory at the Catholic University and at the Richterakademie in Porto Alegre/Brazil. Research subject: “Menschenwürde, soziale Grundrechte und Privatrecht” (Human dignity, fundamental social rights and private law).

22 – 31 July 2001:

Prof. Dr. Miyoko MOTOZAWA, Osaka/Japan. Research subject: “Probleme der japanischen Pflegeversicherung” (Problems of Japanese long-term care insurance).

11 July – 30 September 2001:

Prof. Dr. Ali Nazim SÖZER, DEÜ. İktisadi ve İdari Bilimler, Fakültesi Buca, İzmir/Turkey. Research subject: “Auslegungsmethoden im Recht der sozialen Sicherheit” (Methods of interpretation in social security law).



3 August – 10 September 2001:

Prof. Dr. Makoto ARAI, Chiba University, Faculty of Law and Economics, Japan. Research project: "Behindertenrecht" (Disability law).

10 August – 22 September 2001:

Prof. Dr. Kotaro TANAKA, Yamaguchi Prefectural University, Faculty of Social Work, Yamaguchi-shi/Japan. Research subject: "Weiterentwicklung der gesetzlichen Krankenversicherung im Zusammenhang mit dem Risikostrukturausgleich" (Further development of statutory health insurance in connection with the structural adjustment of risks).

30 August – 20 September 2001:

Prof. Dr. Kazuaki TEZUKA, Chiba University, Department of Law, Chiba/Japan. Research in the field of long-term nursing care and health insurance.

17 September 2001 – 28 February 2002:

CHEN Jing, Associate Researcher, Institute for Labour Science Studies, Ministry of Labour and Social Security, Peking. Research subject: "Administration of social security funds, unemployment insurance in Germany, pension plans, medical care".

8 October – 22 November 2001:

Daleen VAN DER NEST, Vista University, Faculty of Law, Pretoria, Mamelodi/RSA (through Prof. Jorens). Research subject: "Compensation for loss of earning capacity in South African law".

5 – 10 November 2001:

George MPEDI, Rand Afrikaans University, Auckland Park/RSA (through Prof. Marius Olivier). Research on his dissertation: "Re-designing the South African unemployment protection system: a socio-legal enquiry".

19 November – 8 December 2001:

Olga ANGELOPOULOU, National and Capodistrian University of Athens, Institute of Social Insurance, Health and Assistance. Research subject: "Sozialrecht im Vergleich" (Social law in a comparison).

26 November 2001 – 6 March 2002:

Dr. Ildikó PÁKOZDI, Central Administration of the National Pension Insurance Hungary, Budapest. Research subject: "Theoretical and empirical approaches to the employability and integration of people with disabilities in the EU Member States".

2002

26 October 1999 – 23 August 2002:

Dr. Beatrix KARL, cf. 2001.

2 April 2001 – 27 March 2002:

Prof. Dr. Yasushi IGUCHI, cf. 2001.

17 September 2001 – 28 February 2002:

CHEN Jing, Associate Researcher, Institute for Labour Science Studies, Ministry of Labour and Social Security, Peking. Research subject: "Administration of social security funds, unemployment insurance in Germany, pension plans, medical care".

26 November 2001 – 6 March 2002:

Dr. Ildikó PÁKOZDI, cf. 2001.

15 January – 28 February 2002:

Grega STRBAN, Univerza v Ljubljani, Pravna Fakulteta, Ljubljana/Slovenia. Research subject: "Rechtsstatus der versicherten Personen in der gesetzlichen Krankenversicherung" (Legal status of insured persons in statutory health insurance).

1 February – 30 March 2002:

Alpay HEKIMLER, Istanbul Üniversitesi, İktisat Fakültesi Calisma Eko.Bölümü, Istanbul. Research subject (dissertation): "Human Resource Management bei in Deutschland tätigen multinationalen Unternehmen" (Human resource management in multinational enterprises engaged in Germany).

4 February – 4 March 2002:

Dr. Nada BODIROGA-VUKOBRAT, Faculty of Law, University of Rijeka, Croatia. Research subject: "Gleichbehandlung von Mann und Frau im EG-Recht" (Equal treatment of men and women under EC law).

1 April – 31 July 2002:

Prof. Dr. Miyoko MOTOZAWA, University of Tsukuba, Institute for Social Science, Tsukuba/Ibaraki/Japan. Research subject: "Probleme der Pflegeversicherung in Deutschland und Japan" (Problems of long-term care insurance in Germany and Japan).

1 May 2002 – 31 January 2003:

Miryam MEILE, lic.iur., Freiburg/Switzerland. Work on her dissertation: "Alleinerziehung im Familien- und Sozialrecht" (Single parenthood under family and social law).

1 July – 28 September 2002:

Prof. Dr. Carmelo MESA-LAGO, University of Pittsburgh, Faculty of Arts and Sciences, Department of Economics, Pittsburgh/USA. Studies on protection in old age.

3 – 27 July 2002:

Irène POLITIS, University of Paris-I Panthéon Sorbonne. Research subject: "Sozialrecht im Vergleich" (Social law in a comparison – PhD studies).

15 July – 23 August 2002:

Prof. Dr. Makoto ARAI, The University of Tsukuba, Tokyo/The Institute for Advanced Postgraduate Studies of Business Law. Research subject: "Die soziale Sicherheit in der überalterten Gesellschaft und die Rolle des Rechts" (Social security in the aging society and the role of law).

15 July – 2 August 2002:

Dr. Ingo SARLET, Catholic University and Richterakademie, Porto Alegre/Brazil. Research subject: "Soziale Grundrechte, Menschenwürde und Privatrecht" (Fundamental social rights, human dignity and private law).

1 October 2002 – 20 March 2003:

Ovidiu-Adrian TUDORACHE, National Agency for Employment, Bucharest/Rumania. Research subject: "Koordinierung der Systeme für soziale Sicherheit in der Europäischen Union" (Coordination of social security systems in the European Union).

1 October 2002 – 20 March 2003:

Ioan-Alexandru ILIE, National Agency for Employment, Bucharest/Rumania. Research subject: "Die soziale Politik in der Arbeitsförderung – Staatsunterstützungen in der Europäischen Union" (Social policy in employment promotion – state support in the European Union).

4 – 11 November 2002:

Prof. Dr. Kazuaki TEZUKA, University of Chiba, Japan. Research subject: "Sozialrecht im Vergleich Deutschland – Japan" (Social law in a comparison between Germany and Japan).

25 November – 20 December 2002:

Prof. Dr. Herbert SZURGACZ, University of Wroclaw, Poland. Research in the field of European social law.

2003

1 May 2002 – 31 January 2003:

Miryam MEILE, cf. 2002.

1 October 2002 – 20 March 2003:

Ovidiu-Adrian TUDORACHE, cf. 2002.

1 October 2002 – 20 March 2003:

Ioan-Alexandru ILIE, cf. 2002.

1 – 31 March 2003:

As.mag. Grega STRBAN, Univerza v Ljubljani, Pravna Fakulteta, Ljubljana/Slovenia. Research subject: "Rechtsstatus der versicherten Personen in der gesetzlichen Krankenversicherung" (Legal status of insured persons in statutory health insurance).

10 – 15/16 June 2003:

Prof. Dr. Erwin MURER, University of Freiburg i.Ue., Dept. for Labour and Social Insurance Law, Freiburg/Switzerland. Research subject: "Berufliche Eingliederung von vor allem Versicherten mit psychischen Problemen" (Occupational integration, above all of insured persons with psychological problems).



23 June – 11 July 2003:

Dr. Peter HERRMANN, European Social, Organisational and Science Consultancy – ESOSC The Jasnaja Poljana Clonmoyle Aghabullogue Co. Cork, Ireland and University College Cork, Dept. of Applied Social Studies, Cork, Co. Cork, Ireland. Research subject: “Personenbezogene Dienstleistungen und soziale Einrichtungen in vergleichender und europäischer Perspektive” (Personal services and social facilities in a comparative and European perspective).

26 June – 6 July 2003:

Prof. Dr. Jan JONCZYK, University of Wrocław, Poland. Research subject: “Sozialrisiko ‘Ungesundheit’ und Formen der Absicherung” (The social risk of ‘unhealthiness’ and forms of protection).

1 – 25 July 2003:

Dr. Ingo SARLET, Porto Alegre/Brazil. Research subject: “Menschenwürde, soziale Grundrechte und Privatrecht” (Human dignity, fundamental social rights and private law).

2 July – 21 September 2003:

Ass. Prof. CHENG Yanyuan, Peking/China. Research subject: “Comparative law between social jurisdiction in Germany and the judicial settlement of disputes in social law cases in the P.R. China”.

1 – 29 August 2003:

Dr. Beatriz GUTIERREZ-SOLAR CALVO, Madrid/Spain. Research subject: “Sozialrecht im Vergleich” (Social law in a comparison).

1 – 29 August 2003:

Dr. Jesus LAHERA FORTEZA, Madrid/Spain. Research subject: “Sozialrecht im Vergleich” (Social law in a comparison).

22 July – 22 August 2003:

Prof. Dr. Miyoko MOTOZAWA, Osaka/Japan. Research subject: “Probleme der japanischen Pflegeversicherung” (Problems of Japanese long-term care insurance).

4 – 28 August 2003:

Prof. Dr. Makoto ARAI, The University of Tsukuba, Tokyo/The Institute for Advanced Postgraduate Studies of Business Law. Research subject: “Die soziale Sicherheit in der überalterten Gesellschaft und die Rolle des Rechts” (Social security in the aging society and the role of law).

26 August – 5 September 2003:

Prof. Dr. Wolfgang SCHÜTTE, Hamburg University of Applied Sciences (HAW), Faculty of Social Pedagogy, field of work: long-term care & management. Research subject: “Sozialstaat und Humandienstleistungen” (The social state and human services).

5 – 27 September 2003:

Prof. Dr. Kazuaki TEZUKA, Faculty of Law and Economics, University of Chiba, Japan. Preparation of the German-Japanese symposium from 7 to 9/10/03 in Tokyo. Research subjects: “Aktuelle Gesundheitsreform” (Current health care reforms) and “Rentenreform mit Blick auf die demographische Entwicklung in Deutschland” (Pension reform with a view to demographic development in Germany).

6 October – mid-December 2003:

Elena HRITCU, National House for Pensions and Other Social Insurance Rights, Ministry of Labour, Social Solidarity and Family, Bucharest/Romania. Research subject: “Koordinierung der Systeme für soziale Sicherheit (im Pensionsbereich) in der Europäischen Union” (Coordination of social security systems [in the field of pensions] within the European Union).

VII. The Institute



1. Personalia

Scientific Members

Prof. Dr. Ulrich Becker, LL.M. (EHI)
Managing Director (from 2002)

Prof. Dr. Bernd Baron von Maydell
Emeritus

Prof. Dr. Hans F. Zacher
Emeritus

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Research Staff

Carlos L. Cota (from 2002)
Dr. Barbara Darimont (from 2002)
Dr. Alexander Graser, LL.M. (Harvard)
PD Dr. Andreas Hänlein (until 2002)
Dr. Eva-Maria Hohnerlein
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Dr. Angelika Nußberger (until 2001)
Prof. Dr. Hans-Joachim Reinhard
Ass. Friso Ross (from 2003)
Dr. Bernd Schulte
Dr. Christina Walser (from 2003)

Typing and Other Services

Marlin Freise
Gabriele Klauda (until 2002)
Werner Pfaffenzeller
Dr. Martha Roßmayer
Ingrid Werner-Böll (partial retirem.
2003-2005)
Heike Wunderlich

Library

Christiane Hensel (head)
Petra Golombek (until 2002)
Irina Neumann (from 2003)
Eliane Rammler
Andrea Scalisi
Melanie Winkler (partial retirem.
2003-2004)

Translation Services

Esther Ihle (from 2002)
Eva Lutz

Doctoral Candidates

Christian Auktor (until 2002)
Barbara Darimont (until 2002)
Marcus Goebel (until 2002)
Monika Goller (from 2002)
Roland Klein (until 2002)
Martin Landauer (from 2003)
Claudia Matthäus (from 2003)
Angelika Schmidt (until 2002)
Ariane Wiedmann (from 2002)

Academic Assistants

Katrin Christiansen (until 2002)
Maria Grienberger-Zingerle (until 2003)
Melanie Höveler (until 2003)
Nikolai Kley (2003)
Simone Knab (from 2003)
Matthias Knecht (from 2001)
Claudia Laes (from 2003)
Michael Nunner (2003)
Quirin Vergho (from 2003)

Student Assistants

Michael Baba (2001)
Axel Bachmeier (2001)
Martin Breuer (from 2002)
Lena Dobnig (2003)
Carolin Dräger (from 2003)
Kim Heimerer (until 2003)
Pia Jaeger (from 2002)
Eirini-Nektar Kitsara (from 2003)
Dimitrios Kremalis (2002)
Claudia Matthäus (2002)
Claudia Mayer (from 2003)
Christian Mayr (2002)
Hana Meyer (from 2003)
Michael Nunner (2003)
Christine Regnauer (from 2003)
Jens Riech (2001)
Marc Schenk (until 2002)
Dan Tidten (from 2003)
Sabine Tobies (2003)
Christine Wachter (from 2003)
Carola Winkler (2001)

Administration

(jointly with the MPI for Psychol.
Research)

Josef Kastner (head)
Annemarie Batzek
Jutta Czöppan
Daniela Gratzl
Elfriede Hurmer
Karl-Heinz Katzbach
Sylvia Klemm
Christine Moser (from 2003)
Hans Puchberger
Michael Reinert
Hermann Spiegl

IT

(jointly with the MPI for Psychol.
Research)

Dr. Andreas Wohlschläger (head)
Fiorello Banci
Karl-Heinz Honsberg
Henryk Milewski
Axel Römmelmayer
Andreas Schmidt
Max Schreder
Alfons Schwarz (until 2001)



2. Library

The library with its collection of specialized literature on foreign and international social law offers a unique stock of statutory material and literature from over a hundred countries, predominantly in original versions. In addition, it embraces very specific collective fields on relevant research projects, and literature on subjects which in the light of current political developments in Europe are gaining ever more significance, for instance the European Union's enlargement to the east. Supplementary legal fields (e.g. European law, labour law, commercial law) are also represented as base literature.

The library currently comprises (as at 31 December 2003) some 77,500 volumes, consisting of 200 loose-leaf collections, approx. 7,140 bound journals and continuing sets, as well as 246 current periodicals – of which 121 are published in Germany, 125 abroad – and 7 newspapers. Inventory growth is at an annual rate of about 2,200 publications.

Publications by the academic staff are archived and now also accessible on a central electronic server (eDoc) of the Max Planck Society. Furthermore, new acquisition lists are published four times a year in printed form, and on the homepage of the library catalogue.

The entire collection of monographs and periodicals, as well as all orders are recorded in the online catalogue. Library users and staff are thus able to access holdings quickly and effectively. In August 2001, the former electronic library system was replaced by the modern, efficient and internationally acclaimed Aleph programme. Under a one-year project, a concept so far unique in the library sector has been developed in collaboration with ten other pilot libraries. The system is administered on a central server in Göttingen and enables the individual li-

braries to access the adaptation they themselves have developed to meet their specific needs. The entire inventory has been transferred into the new system; the web catalogue presentation is user-friendly and now also offers an English version. Meanwhile, over 30 Max Planck libraries work with Aleph, whose holdings can also be accessed via Vlib (information portal of the Max Planck Society)

In addition to the online catalogue, users can also access other online and CD ROM databases. Over and above this, the library provides information and research options on particular subject areas from legal and general bibliographic sources in the Internet. These include electronic journals offering Max Planck Institutes free access, as well as the online databases furnished by a number of publishing syndicates on the basis of joint-institute contracts. The Internet moreover affords further possibilities for the use of libraries, databases, electronic journals and other services.

Books not available in the library can be obtained from the Bavarian State Library or other facilities in the vicinity. Urgent requests for literature not available in Munich are met by a document delivery service, which supplies journal essays (usually by e-mail) as well as volumes.

Inter-library lending via the document delivery service and from neighbouring libraries – the Bavarian State Library and the library of the Ludwig-Maximilians-Universität, and others – accounted for some 2,000 borrowings in the period under review.

Apart from foreign guests who worked at the Institute for a prolonged period, about 470 guests used the Institute library.

3. Homepage and Internet

The Institute has begun to place more emphasis on its Internet portal so as to provide the public with useful information concerning our activities, structure and publications, as well as to continue improving accessibility to research materials in the field of foreign and international social law.

www.mpisoc.mpg.de

The first step has already been completed with the launching of the new website which shortly followed the registration of the Institute's sub-domain name "*mpisoc*". The design and layout chosen for *mpisoc* was based on what website viewers would expect from a modern and well-structured means of communication. Whilst complying with the recognition standards set by the Max Planck Society and generally accepted models and/or patterns commonly used in the World Wide Web, the site was conceived to express the individuality of the Institute and its team members. The challenge, however, was to combine technical functionality with graphical elements, elements which provide the viewer with theme-related associations, thus making the presentation, as a whole, more interesting whilst avoiding having to compromise compatibility and data transfer speed. A system of modifying the entire content of the site within the same template was chosen to provide efficiency and continuity of the structure.

Implementation

Once the design had been established, the implementation was also carried out with the focus on using contents which would allow for quickly accessible web information, facilitate information updates and editing, as well as assure the integrity of the data used for various forms of publication. Thus, at this level, unification of the information sources in the form of databases constituted the most important step. Databases which are used to generate dynamic sites were designed to provide the best efficiency to avoid slowing the data transfer rate. Nevertheless, this task also included creating a system which would be able to produce regular expressions in a variety of languages without necessarily having to modify the core information of the different items.

Sections which are not dynamically generated, i.e. contents consisting in purely web-oriented material, were also stripped down in the form of building blocks containing pure-text insertions allowing for their incorporation into the pre-formatted web pages. The idea here was also to provide for quick editing and to preserve the site's content regardless of its layout and/or design. The latter concepts are beginning to show their advantages in connection with the cooperation discussions between the "legal" Max Planck Institutes concerning resource-pooling in the area of web development.



The Law Sites

Today, most websites have conformed to certain layout “traditions” which have proven successful in terms of viewer comprehension of the structure and, in general, acceptance by visitors. Specific groups, whether academic or professional, have also reached a sort of consensus on the expectations of a “successful” website. Bearing this in mind, together with the recognition that research institutions of a particular branch do tend to have similar needs, the “legal” institutes of the Max Planck Society have set up the framework for inter-institute cooperation in the form of pooling resources and, to a extent, jointly providing their visitors with branch-specific information regarding the various disciplines researched at the particular institute.

Development

The development of the World Wide Web has taken incredible strides in the last decade and has not shown very many signs of slowing down. The possibilities available to, *inter alia*, researchers, especially those working on an international or trans-border level, to obtain and compare information have never been more accessible. Even amongst those, such as jurists, who are traditionally known for strictly adhering to printed material, the publications available through the Internet have become an indis-

pensable resource and have provided all with valuable tools to improve the quality (and even the quantity) of relevant works on a particular theme or problem. We are very pleased also to be in a position not only to receive information to help us ground our findings on facts, but also to provide those who wish to consult our materials with the advantages of our resources at the click of the mouse button.

Contents

Until now, the overriding objective of the site was to communicate its contents. Logically, in keeping with the expectations of the Society and of the Institute, this aspect is and shall remain the most important one. At the moment, the information we provide deals mostly with events, including (insofar as possible) synopses thereof, and references to published materials. The facilitated publication of and access to gathered, sorted and structured information has made websites a first choice in beginning any form of research. As mentioned, the new platform has been conceived for its expansion. Nevertheless, the website, server and other extras simply represent a reliable pen and an endless stack of paper. Taking this into account, “researching what is being and has been researched” as well as making it available on the web is the true reason for and function of *wwwsoc*.

VIII. Miscellaneous



1. Dissertations, Habilitation Theses and Appointments

a) Dissertations

Supervision: Bernd Baron VON MAYDELL

2001: *Niklas WAGNER*: "Internationaler Schutz sozialer Rechte - die Kontrolltätigkeit des Sachverständigenausschusses der IAO", Studien aus dem Max-Planck-Institut für ausländisches und internationales Sozialrecht, Baden-Baden: Nomos, Vol. 23, 2002, 332 p.

2002: *Marcus GOEBEL*: "Verfahren der Europäischen Gemeinschaft zur Annäherung der Ziele und Politiken im Bereich des sozialen Schutzes: Von der Konvergenzstrategie zur Methode der offenen Koordinierung", Studien aus dem Max-Planck-Institut für ausländisches und internationales Sozialrecht, Baden-Baden: Nomos, Vol. 24, 2002, 185 p.

2002: *Angelika SCHMIDT*: "Europäische Menschenrechtskonvention und Sozialrecht. Die Bedeutung der Straßburger Rechtsprechung für das europäische und das deutsche Sozialrecht", Studien aus dem Max-Planck-Institut für ausländisches und internationales Sozialrecht, Baden-Baden: Nomos, Vol. 29, 2003, 307 p.

2002: *Markus HOLLICH*: "Die Absicherung von Arbeitszeitguthaben für den Fall der Insolvenz des Arbeitgebers", Munich: Utz-Verlag, 2003, 156 p.

Supervision: Ulrich BECKER (from 2002)

2002: *Veronika GRIESER*: "Flexible Integration in der Europäischen Union: Neue Dynamik oder Gefährdung der Rechtseinheit?", Schriften zum Europäischer Recht, Vol. 100 (2003).

2002: *Ulrike KUMMER*: "Vom Eigen- oder Regiebetrieb zum Kommunalunternehmen – Ziel und Weg der Umwandlung nach Art. 89 Abs. 1 BayGO", Schriften zum Öffentlichen Recht, Vol. 930 (2003).

2002: *Götz SCHIMMING*: "Konvergenz der Grundfreiheiten des EGV unter besonderer Berücksichtigung mitgliedstaatlicher Einfuhr- und Einreisebeschränkungen".

2003: *Kirsten NIESSEN*: "Kollektiver und landesverfassungsrechtlicher Abschiebungsschutz von Ausländern – unter besonderer Berücksichtigung der Stellung der Bundesländer".

2003: *Claus LOOS*: "Die Sozialhilfe, der Tod und das Recht", SdeS, Vol. 4 (2003).

2003: *Doris KOLLER*: "Die Bedeutung von EG-Richtlinien im Zeitraum vor Ablauf der Umsetzungsfrist – Wirkungen für die nationale Rechtsordnung".

2003: *Jutta KAEMPFE*: "Die Systemfunktionen von privater Altersvorsorge im Gesamtsystem sozialer Alterssicherung – Großbritannien, Deutschland und die Schweiz im Vergleich".

b) Habilitation Theses

2001: *Dr. Andreas HÄNLEIN*: "Rechtsquellen im Sozialversicherungsrecht", Faculty of Law of the Albert-Ludwigs-Universität Freiburg/Breisgau.

2002: *Dr. Angelika NUSSBERGER*: "Sozialstandards im Völkerrecht. Eine Studie zu Entwicklung und Bedeutung der Normsetzung der Vereinten Nationen, der Internationalen Arbeitsorganisation und des Europarats zu Fragen des Sozialschutzes", Ludwig-Maximilians-Universität München.

c) Appointments

2003: *Dr. Angelika NUSSBERGER*, University of Cologne, Faculty of Law, Director of the Institut für Ostrecht.

2003: *Dr. Andreas HÄNLEIN*, Professor, University of Kassel, Chair for Economic, Labour and Social Law, Faculty of Economics.

2003: *Dr. Hans-Joachim REINHARD*, University of Applied Sciences in Fulda, Professor for Social Law and Private Law, Faculty of Social and Cultural Sciences, course on social law.

2. Expertises

Eva-Maria HOHNERLEIN:

- *Opinions on Italian law:*

18 January 2001:
AmtsG Köln (Local Court Cologne):
splitting of pension rights / Italian
pension claims.

8 February 2001:
SG (Social Court) Düsseldorf: comparability of an Italian old-age pension with an old-age pension under the German state pension scheme (§§ 118 [1] No. 4, 142 AFG).

14 August 2001:
AmtsG (Local Court) Schöneberg:
splitting of pension rights.

5 March 2002:
LSG München (Higher Social Court Munich): comparability of an Italian pension with both a German civil servant's pension and an old-age pension under the German state pension scheme.

30 December 2002:
AmtsG (Local Court) Kiel: splitting of pension rights.

- *Opinion on Venezuelan law:*

19 October 2001:
ArbG Nürnberg (Labour Court Nuremberg): labour law of Venezuela – social policy purposes of employer benefits pursuant to Arts. 37 and 39 of the Labour Act of 1973.

Bernd Baron VON MAYDELL:

2002:
Legal opinion on the promotional initiative of the Volkswagen Foundation: "Zukunftsfragen der Gesellschaftswissenschaftlichen Analyse und Beratung" (Future issues of social science analysis and consulting).

August 2002:
Legal opinion: "Rechtsnatur der Arbeitslosenhilfe – Anforderungen an den Gesetzgeber" (Legal nature of unemployment relief – demands on the lawmaker), delivered

together with Dr. Reinhard for the German Federal Labour Ministry.

2002 – 2003:
Collaboration in the expertise provided by the Institute to the GTZ (Society for Technical Development Cooperation).

Hans-Joachim REINHARD:

2002 – 2003:
Collaboration in the expertise provided by the Institute to the GTZ.

2003:
Diverse legal opinions to courts on the splitting of pension rights.

2003:
Opinion on Book IX of the German Social Code (SGB IX), delivered to the Administrative Headquarters of the Max Planck Society.

3. Honours

Alexander GRASER:

2001:
Otto Hahn Medal awarded by the Max Planck Society for the doctoral thesis completed in 2000.

2003:
Bavarian Habilitation Promotion Prize awarded by the Bavarian Free State.

Bernd Baron VON MAYDELL:

2001:
Heinrich Lünendonk Medal for the Recognition of Exceptional Merit in the Field of Social Insurance.

18/12/2002:
Japanese Order of the Sacred Treasure, Gold Rays with Neck Ribbon.

Hans F. ZACHER:

2001:
Austrian Order of Merit, First Class, for Science and the Arts, awarded by the Austrian Federal President on behalf of the Austrian Federal Government.



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