

Germany

Employment policies, unemployment administration, placement of unemployed workers: the great shake-up

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Since the end of 2008, the recession has been affecting the German labour market, forcing a further roll-out of employment policies. At the beginning of 2009 the government launched a second pact to deal with the economic situation. The ‘Law on ensuring Employment and Stability in Germany’, which was approved on 5 March 2009 and came into force the next day (Bundesgesetzblatt I No. 11 of 5 March 2009), provides for 50 billion euro to be injected into the economy, making it the largest short-term economic programme in the history of the Federal Republic. One of the main measures in terms of employment policy is the re-emergence of ‘partial unemployment’. This instrument of social policy, which in German is called *Kurzarbeit* (short-time working), had lost its attractiveness after 1997 as a result of the increased use of time savings accounts which proved to be more flexible. By means of this cushioning measure, the federal government is seeking to align the short-term needs of both employers (adapting to a downturn in demand) and employees (avoiding job losses). The reforms made to the system of short-time working include: its duration (moving from 6 to 18 months, 24 months in an emergency); greater flexibility of access criteria; more generalised use of fixed-term contracts for beneficiaries; and lastly, financing¹. In 2009 and 2010 employers will be exempt from paying social charges in the case of short-time working to the tune of 50%, or more if vocational training is provided for the workers concerned. The Federal Employment Agency (BA) is expecting a large increase in costs arising from short-time working in 2009, up from 287 million euro in 2008 to 2.1 billion.

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1. Unlike the situation in France, partial unemployment forms part of the unemployment benefit scheme, funded entirely by social security contributions, and hence excludes all employees who do not pay social security contributions.

The increased use of short-time working, and its re-evaluation as an adjustment measure, for a strictly limited period, has met with approval from trade unions and the great majority of employment experts, but is not seen as a panacea.

Even before the current international crisis broke, however, changes to the employment system had presented a challenge to the traditional institutions of employment policy. The underlying convictions associated with the world of work and industrial relations had been transformed following the erosion of the standard model of employment, as had attitudes towards new models of the family, the link between work and family life, and the demand for equality between men and women. Job insecurity and insecurity *within* employment gained ground. The demand for reform became stronger as unemployment insurance was seen to be on its last legs. In 2002 the ‘Hartz’ laws², supplemented by a whole series of changes, initiated a ‘modernisation of services in the labour market’. This reform has brought about a much more far-reaching transformation of the structure and content of employment policies than any previous legislative reform. It reflects the new convictions of those involved in employment policy about unemployment, its origins and how it should be dealt with (Baethge-Kinsky *et al.*, 2008:4). New regulatory instruments, based on business management principles, are being used to re-organise advisory, placement and administrative services for unemployed persons, in an effort to reduce ‘passive expenditure’ and achieve greater ‘intensity’ of follow-up.

The Hartz laws put into practice the OECD’s recommendations and guidelines advocating a policy of activation, and also the Lisbon employment strategy which aims at achieving a 70% employment rate in all Member States by 2010. This reform measure has played a major part in re-orientating employment policy, and for this reason will receive particular attention in the course of this article.

2. Named after Peter Hartz, former Director of Human Resources at Volkswagen and Chairman of the Commission on ‘Modern services for the labour market’ set up in 2002 by the federal government to spearhead reforms to the labour market.

The evolution of institutional thinking: a historical review

The German State was quick to concern itself with the administration of labour and the placement of unemployed workers. The first system to be created and funded by the government, entitled ‘assistance for the unemployed’ (*Erwerbs-losenfürsorge*) was introduced in 1918, just after the First World War. It was directed solely at people who ‘having become unemployed as a result of the war, find themselves in need’ (Gerhard, 1988:47). Men were the target group for this measure, along with women who were forced to provide for their families in place of men: ‘Female persons shall only qualify for assistance if they are dependent on paid employment’ (*ibid.*).

From assistance for the unemployed to unemployment insurance

An important stage was reached nearly ten years later, in 1927, when ‘assistance for the unemployed’ was changed to become unemployment insurance, set up as a third branch of social security (together with sickness and pensions insurance). The system, which was funded by contributions, was managed jointly by the two sides of industry within an autonomous body³. Having won acceptance for the insurance principle, the State transferred the costs of unemployment to the social players by means of social charges. Previously, mutual aid had been organised via independent support funds, which since the 19th century had been managed by occupational associations, trade unions and women’s unions, with increasing involvement of local authorities (Gerhard, 1988:49).

Unemployment insurance brought together two activities which had previously been kept separate - job placement and compensation for the unemployed. The latter could now be claimed as of right and was not subject to a means test. The long-term unemployed, persons about to join the labour market or those who had not worked for a sufficiently long period to claim insurance, continued to benefit from State assistance payments.

3. www.deutsche-sozialversicherung.de/de/arbeitslosenversicherung

An amendment to the law in 1929 restricted access to unemployment insurance benefits. The introduction of a criterion of 'availability for work' limited access in effect to persons without domestic commitments. This legally vague criterion remains a feature of present placement practices, excluding women in particular from benefits and social entitlements since the supply of subsidised childcare facilities remains poorly developed.

The National-Socialist government (1933-1945) put an end to joint management of unemployment insurance by the social players. A *dirigiste* approach to placement of the workforce was adopted and promoted as a State programme (Glismann *et al.*, 2002).

After 1945

The Federal Labour Office (BA, Bundesanstalt für Arbeit), later to become the Federal Employment Agency (Bundesagentur für Arbeit), was set up in 1952 using the 1927 model of unemployment insurance. The institutional integration of unemployment insurance into the social security system thus took place earlier in Germany than in France. The BA was a body established under public law with a tripartite management structure (*paritätische Selbstverwaltung*). It held a monopoly over placement and advice services to unemployed workers, which it gave up only in 2003, with the Hartz reforms.

In the Socialist GDR, the right to work was enshrined in the Constitution. Officially, no-one was unemployed, and hence there was no unemployment insurance.

The move towards a more active employment policy

A new approach to unemployment and to employment policy underlay the reform to the Law on the Promotion of Employment (*Arbeitsförderungsgesetz*, AFG), a decisive measure adopted in 1969. The BA's powers were enhanced by elements of an 'active employment policy': in addition to advice and placement services for unemployed workers, its remit was now to promote training and occupational qualifications for job-seekers, so as to prevent 'low-value' jobs. The idea was not to find 'a job at any price' but 'good jobs at a fair wage' (Glismann *et al.*, 2002).

The reform to the Law on the Promotion of Employment took place in a context of full employment which lasted from the mid-1960s until the beginning of the 1980s. Unemployment was not a major political issue. This led those involved to pin their hopes on the economic feasibility of the project; this however proved illusory following the sudden increase in unemployment which began in the mid-1980s and has persisted over the years. The AFG law perpetuated and consolidated the German tradition of the welfare state, based on a logic of 'de-commodification' (i.e. a partial decoupling of work and income) which, by providing generous replacement income, makes it easier for wage-earners to avoid having to accept work at any time and at any price during periods of non-employment.

The austerity laws (*Spargesetze*) of the late 1990s marked a turning-point: the idea of an active employment policy was progressively abandoned. In 1998 the legal autonomy of the Law on the Promotion of Employment was abolished, and this area of law was incorporated into the Social Code (*Sozialgesetzbuch*, SGB III). The unemployed were about to be given their own sense of responsibility. The slogan of the Hartz laws, 'promote and demand' (*Fördern und Fordern*) has since 2002 summed up this way of thinking. The objectives pursued by the Law on the Promotion of Employment (AFG) – new tools to qualify people for high-quality jobs – have slipped into second place.

The unemployment benefit system

Bismarck's model of social security was based on the insurance principle, with benefits funded by contributions. In a broader interpretation, the idea of social security involves more than just replacement income funded by contributions, and includes benefits funded out of taxation. The latter were out of favour for a long time in West Germany – because of the need to distance themselves ideologically from the East German model of the 'protective' social State funded by taxation, and because this type of benefit seemed out of step with post-war economic policy and its notion of the 'economic citizen' (*Wirtschaftsbürger*), at the very time when people were keen to promote the image of the (male) head of the family in his role as breadwinner. Since then, perceptions and the financial resources of social insurance schemes have both evolved considerably: thus one-third of the receipts of the pension insurance scheme now come from the federal budget (*Bundeszuschuss*) and the unemployment insurance funds are likewise topped up from the public purse (SGB III para. 363).

A restrictive view of paid employment ... and access to social security benefits

The restrictive view of paid employment has nonetheless persisted, being used to justify similarly restricted access to social security benefits, and hence to unemployment benefit. Historically, the German social security system has linked entitlement to social benefits to the exercise of a job (usually the preserve of men) capable of feeding a family. Access to benefits from the Federal Employment Agency is more limited in Germany than in France, for example. The corollary to this is the relatively wide range of jobs which are not subject to social security contributions. Some contracts of employment, such as the so-called *Mini-Jobs* (also known as '*400-euro jobs*') are exempt from social charges for employees; employers must make a flat-rate contribution to the pension and sickness insurance schemes as well as paying a flat-rate tax. In the same way the 'new' self-employed (for example those heading up the single-name companies established under the Hartz laws, the so-called '*Ich-AGs*') are generally not required to pay social security contributions.

Organisation and role of the Federal Employment Agency

Payments made by the Federal Employment Agency (BA) are targeted at three categories of beneficiaries: employees, employers and institutions (see Bundesagentur für Arbeit 2008a, 2008b).

- Employees receive, in addition to unemployment benefit, payments to facilitate resumption of employment (aids to mobility) or to set themselves up as self-employed persons (start-up aid). The BA finances training measures and help with returning to work; disabled persons also benefit from these measures. It pays out subsidies under the law on part-time working in retirement, and finances measures targeted more generally at senior citizens.
- Companies receive subsidies for measures designed to integrate and train different categories of employees. The BA pays them redundancy allowances, refunds social security contributions for seasonal work, and reimburses extra wage or salary payments due under the scheme for part-time working in retirement.

- Benefits paid to institutions consist in funding socially useful jobs (*Arbeits-beschaffungsmaßnahmen*) and subsidies to placement agencies (*Personal-Service-Agenturen*, see below).

The BA itself is financed by public subsidies and by contributions paid jointly by employers and by employees whose jobs are subject to social security contributions (Table 1). The trend of contributions is downward: currently they represent 3.3% of gross pay. A reduction to 2.8% is currently being discussed⁴ in order to justify the corresponding increase in contributions to the sickness insurance scheme. Neither the employers nor the trade unions are mounting any significant opposition to this scheme; neither has any interest in seeing a rise in social security contributions.

Table 1 Unemployment benefit scheme

Rate of contribution	3.3% (2.8% from January 2009) - 1.65% paid by employers - 1.65% paid by employees
Minimum conditions for affiliation	12 months during the last 2 years
Level of benefit	60% of reference wage *) 67% if claimant has dependent children
Reference wage ceiling (gross/month) **)	original Länder: €5,300 new Länder: €4,500
Minimum level of monthly allowance	./.
Maximum level of monthly allowance	original Länder: €2,166.30 new Länder: €1,908
Minimum wage	./.
OECD unemployment rate Dec. 2007 (except where indicated)	7.8%

*) The reference wage for calculating the unemployment allowance is the net pay (gross pay less tax and social security contributions).

**) Gross pay subject to social security contributions.

Source: Unedic DAJ (Département des études internationales), formatted by the author.

In order to receive unemployment benefit, a claimant must be able to demonstrate a period of contribution to the unemployment insurance scheme of twelve months during the two years previous to becoming

4. Contributions will be reduced to 2.8% from January 2009, for a period of 18 months. They will be raised to 3.0% from July 2010.

unemployed (instead of 32 months as before). The level of benefit depends on the previous net wage or salary (capped) and on the claimant's family situation. It corresponds to 60% of net pay⁵, or 67% when the household includes dependent children. Since Germany does not have a statutory minimum wage, there is no minimum threshold for unemployment benefit, although the upper level is capped. The period during which unemployment benefit is paid out depends on the claimant's age and the contributory period. From age 58 onwards, the maximum period for payment of benefits is 24 months⁶ (Table 2).

Table 2 Maximum period of benefit (entitlement acquired since 1 January 2008)

Total contributory period (minimum in months) ^{*)}	Age conditions	Entitlement: number of monthly payments
12 – 24		6 - 12
30	50 years	15
36	55 years	18
48	58 years	24

*) In determining the contributory period giving an entitlement to benefit, only payments made during the 5 years preceding unemployment are taken into account.

Source: <http://www.arbeitsagentur.de>

In Germany the gap between wages for men and for women is 22% (Busch, Holst, 2008:188); this is relatively high by European standards, because women have shorter working hours and less favourable career patterns. This discrepancy also has a knock-on effect on the level of unemployment benefit: monthly allowances for women are on average one-quarter less than those for men.

Table 3 Average level of unemployment benefit (Arbeitslosengeld I) in 2006

	Women	Men	Total
Monthly amount paid	€624	€898	€775

Source: Bundesagentur für Arbeit (2007), Arbeitsmarkt 2006, Nuremberg. Formatted by the author.

5. Net pay less income tax and social security contributions (i.e. -21% in total).
6. When the Hartz laws were introduced, the right to benefit was limited to 18 months for persons aged 55 and over; the figure has since been increased.

From an active employment policy to a policy of activation

The Hartz reforms, implemented from 2002 onwards⁷ against a background of long-term structural unemployment, marked a paradigm shift: promotion of employment was replaced by ‘workfare’ (‘welfare to work’); in other words, the idea of a social State founded on the logic of ‘de-commodification’ gave way to a social model based on the logic of ‘workfare’. The ‘activation’ paradigm is central to reform of the labour market. To this end, changes were made to the organisational structure of the BA and the services it provided, and the institution itself, re-named ‘Federal Employment Agency’ (Bundesagentur für Arbeit), was adapted to take account of new regulatory strategies. A Commission was set up, entitled ‘Modern services for the labour market’. As a result of its proposals four laws were adopted (Veil, 2005):

- The BA lost its monopoly on job placement. With the setting-up of private agencies, known as *Personal-Service-Agenturen* (PSA), the emphasis is on speeding up the re-integration of unemployed workers. PSAs work along the same lines as temping agencies: they sign contracts with local employment agencies and place job-seekers in firms (Hartz I, 2003).
- The employment agencies in the Länder (*Landesarbeitsämter*) were transformed into ‘Job-Centers’ by merging the local employment agencies with the local authorities’ social security offices (in preparation for Hartz IV, see below). The separation of local facilities for job-seekers and social security claimants was done away with, in order to bring advisory and assistance services ‘into one set of hands’ (Hartz II, 2003).
- The BA was re-organised to become a service agency. The objective is to achieve a better ‘density’ of advisory activities, delivered in a more individualised way. For this purpose, advisors in individual counselling were introduced (*Fallmanager*)⁸; return-to-work

7. In 2002, half of all job-seekers were long-term unemployed (as against 40% in France and 20% in Denmark). The average period of unemployment was 7-8 months, twice the average in Denmark (cf. Veil, 2005).

8. For a critical assessment, see Baethge-Kinsky *et al.*, 2007.

contracts are signed with job-seekers. In a parallel move, the legislature tightened the conditions for receiving benefit. A contributory period of twelve months during the two (instead of three) years preceding the onset of unemployment is now required in order to receive unemployment benefit (Hartz III, 2004).

- The benefit paid to unemployed people who have reached the end of their entitlement ('unemployment assistance', *Arbeitslosenhilfe*)⁹ and social assistance benefit (*Sozialhilfe*)¹⁰ have been merged. The result of this merger is a single benefit, called 'basic protection' (*Grundsicherung*) or ALG II (*Arbeitslosengeld II*, Unemployment Benefit II), intended for the long-term unemployed. This law forms the keystone of the Hartz reforms. It is aimed at activating people who are fit for work but require assistance (*cf.* Text Box 1): under the new *Grundsicherung* (basic protection) measure, they are slotted into activation programmes run by the BA's job placement services (Hartz IV, 2005).

1. Persons fit for work who require assistance (erwerbsfähige Hilfebedürftige)

The category 'persons fit for work who require assistance' is made up of people aged between 15 and 65 years who are able to work at least three hours per day. 5.13 million people were in this situation in May 2008. But barely half of these are included in the job-seeker statistics: they are workers who do not have a paid job which is of benefit to society, are not in early retirement, and are not unavailable to the labour market because they are bringing up children or are themselves undergoing education or training.

9. The means-tested unemployment assistance paid to long-term unemployed persons was funded out of taxation. It was granted for an unlimited period if justified by the means test. The method of calculating the benefit was the same as for unemployment benefit, but at a lower rate.
10. Social assistance, which was codified in the federal law on social assistance (BSHG) of 1961, was funded out of taxation and managed by the local authorities. It was intended to guarantee a minimum level of subsistence for persons who could not themselves provide for their own needs or rely on support from parents, spouses or children (the subsidiarity principle). Social assistance was universal in nature. In their capacity as managers, local authorities could adapt basic rates and the housing allowance to reflect local conditions.

The new means-tested 'basic protection' (ALG II) is a flat-rate benefit funded from taxation. Calling it 'Unemployment Benefit II' may be misleading: unlike the earlier aid to the unemployed, it is not a replacement income determined on the basis of one's occupational status and previous rate of pay. ALG II is a means-tested benefit whose level is dependent on the degree of need.

Single persons and lone parents receive the full basic amount. This is set at 351 euro (347 euro before 1 July 2008, at which date it was increased by 4 euro!). The basic rate for married people is 316 euro. For children under 14 it is 211 euro, for children aged 14-15 it is 281 euro, and also 281 euro until they reach adulthood (until age 25 for those still living with their parents). Added to this are 'reasonable' expenses for housing and heating costs. Recipients may also make an application for allowances to cover exceptional items (e.g. moving house)¹¹.

Since 1 January 2005, advisory, counselling and job placement services for those benefiting from 'basic protection' have been entrusted to a number of different agencies. This opening-up to competition, on an experimental basis, has created a very opaque situation.

The joint services of the employment agencies and the local authorities' social benefit offices (ARGEN) are the main managers of the 'basic protection' scheme (Text Box 2). The way in which responsibility is shared has however proved problematic in both legal and organisational terms. The employment agencies are dependent, legally and technically, on the Federal Ministry of Labour and Social Affairs, whereas the local authorities, who are responsible for social assistance, operate according to the federative principle of self-administration (*Selbstverwaltung*), under the aegis of the *Länder*. The task of devising employment strategies now falls on teams who are often under-prepared (i.e. the staff in the social benefit offices). The Constitutional Court has recently upheld a claim brought by eleven local authorities, declaring the ARGEN model unconstitutional in December 2007. For the time being, the repercussions of this judgment for the management model concerned are not known.

11. <http://www.arbeitsagentur.de>

2. Bodies responsible for managing 'basic protection'

- Service providers working together (*Arbeitsgemeinschaften*, ARGEN – 'working communities'). Setting up a joint service involving local employment agencies and local authority social benefit offices is the standard configuration provided for under the Social Code (SGB II). This form of cooperation is based on public or private law contracts. It is the principal mode of management for 'basic protection' and counselling for claimants.
- Local authorities approved to manage 'basic protection' on their own. For an experimental period of six years, 71 districts (*Kreise*) and cities have been charged with carrying out all the tasks involved in monitoring people who require assistance. They have to test alternative models for re-integrating job-seekers into the labour market. After the experimental period, in 2010, the managing bodies for *Grundsicherung* will be permanently appointed.
- Distribution of responsibility. In the absence of a joint service (ARGEN) or an approved local authority, the employment agencies and local authorities manage those functions falling within their field of competence on an autonomous basis. The employment agency pays Unemployment Benefit II and funds work integration measures, while housing expenses and social work provision (debt or dependency counselling, for example) are the responsibility of the local authorities. 23 districts (*Kreise*) fall under this model (see also Kaps *et al.*, (2008)).

Limited success for the BA's placement services

It is difficult to say what precise role can be attributed to the job placement efforts of the Federal Employment Agency in bringing people out of unemployment, and how much is due to way the labour market is evolving. It is nonetheless true that the intervention of the BA has had only a small influence on ending unemployment across the board (Table 4).

Table 4. Ending unemployment: reasons given, 2006, in %

Return to employment without intervention by employment agency	20.4%
Return to employment following intervention by employment agency	12.6%
Self-employed	2.8%
Vocational training	15.4%
Other unspecified activity	6.0%
Unfit to work	14.9%
Unavailability/refusal to participate	4.1%
Other/unknown reasons	23.8%

Source: Bundesagentur für Arbeit (2006), Arbeitsmarkt 2006, Nuremberg. Formatted by the author.

Only 12.6% of all people coming out of unemployment in 2006 were due to the job placement activities of the employment agencies. That represents only a third of all outcomes resulting in employment (return to employment with or without BA intervention, transition to self-employment, or ‘other’ activity). These outcomes are already low, at a rate of only 42%.

A statistical analysis in June 2008 targeting specifically the long-term unemployed produced even more pessimistic results (Bundesagentur für Arbeit, 2008c). The rate of transition to jobs subject to social security contributions, in the first half of 2007, was 4.0% as a national average. There are, however, marked regional variations. The rate is high (around 8%) in regions with a favourable employment situation (Bavaria and southern Germany); it is very low (2-3%) in the east of Germany.

It must be borne in mind, however, that only around 30% of available jobs are notified to the public employment services. The overwhelming majority of recruitment takes place through other channels: Situations Vacant adverts in the press, job-search websites, private contacts¹².

Returning to working life does not however offer the prospect of lasting re-integration. Periods of unemployment often lead to serious gaps in a person’s cv, and few formerly unemployed workers take up a new job under conditions equivalent to the job they have lost.

12. www.sozialpolitik-aktuell.de

This somewhat nuanced picture highlights the limits to the BA's placement activities. A member of the BA board, Heinrich Alt, said much the same thing when he stated that 23% of long-term unemployed persons who had managed to come out of the ALG II scheme in the first half of 2007 (i.e. 400,000 people) would find themselves back there three months later (Neugebauer, 2008:3, footnote 9).

A muted response from the trade unions

The trade unions put up a relatively weak show of resistance to the introduction of the Hartz laws, and their criticisms have remained somewhat muted – thus far. Rather, criticism has come from academics, churches and associations, and from some political parties (*Die Linke*). The trade unions seem to have concentrated their attack on specific aspects rather than on the reforms as a whole. This may perhaps be explained by the fact that the Hartz reforms were implemented by a coalition of Social Democrats and Greens.

Criticism has focused essentially on three areas. The trade unions first condemned the deterioration in the conditions for granting Unemployment Benefit I (increased qualifying period and reduced payments). They then challenged the introduction of subsidised jobs – the so-called *1 euro jobs*. In a joint move, the DGB and ver.di have since 2004 been calling for the period of application of this measure to be limited, and for the establishment of stepping-stones to facilitate entry to the primary labour market¹³. Ver.di is not rejecting the principle of these jobs as such, but is insisting on a differentiated form of application, so as to avoid unwanted side-effects: windfall effects, pressure on the wages system, the relegation of long-term unemployed people essentially to these types of jobs¹⁴. The DGB has expressed a similar view (DGB-Bundesvorstand, 2004). All these dangers have since turned out to be real.

The low level of basic sums payable to the long-term unemployed (ALG II) is currently being hotly contested. A household with a dependent child aged 14 received (before July 2008) 311 euro for each of the two adults and 207 euro for the child (excluding housing and heating costs). The

13. <http://www.verdi.de>

14. http://www.verdi.de/positionen/1-euro-jobs/data/ver_di-positionen_1-euro-jos

increase of 4 euro in the basic rate in July 2008 set the cat among the pigeons. The trade unions have given their support to a number of individual claims for an increase in basic rates. Until now the Constitutional Court and the Social Affairs Court have rejected these claims. The DGB is calling for an autonomous basic amount for children to cover their needs in terms of education, school meals and out-of-school activities. Faced with increasing child poverty in families who are dependent on 'basic protection' (the so-called 'Hartz IV families'), such calls are gaining ground.

The very fact that debates about reforms to the labour market have spread to the issue of child poverty shows just how much these reforms affect the day-to-day life and future expectations of the persons concerned.

Limits of the 'promote and demand' paradigm of activation

The reforms to the labour market have re-defined the management structures for unemployment around two entities: unemployment insurance, managed by the BA, as defined in the Social Code (SGB III), which determines the limits within which Unemployment Benefit I is granted; and 'basic protection' (*Grundsicherung* or ALG II) which guarantees resources for job-seekers under a different chapter of the Social Code (SGB II) and is managed by a number of different bodies (ARGEN involving employment agencies and local authorities, 'autonomous' municipalities, and local employment agencies acting under the banner of distributed responsibility (see Text Box 2 above and CERC, 2005:128).

The legal competence of the BA and of the local employment agencies – which are responsible for one-third of unemployed workers – is centred on the so-called active promotion of employment, which involves activating 'clients' with the aim of integrating them rapidly into the primary labour market. In the low-wage area, this type of activation leads to an overlap between wages and *Grundsicherung* benefits. A growing number of working people are dependent on supplementary benefits under 'basic protection', even when they are working full-time. In March 2007 there were 2.28 million workers receiving 'top-ups' ('*Aufstocker*'), i.e. some 21% of workers who are fit to work but require assistance (BA, 2007: 16). Employers are thus offering low wages at society's expense.

The aid system funded by taxation, 'basic protection' for the long-term unemployed, is part of the so-called passive promotion of employment which aims above all at 'giving a sense of responsibility' to people who are fit to work but require assistance. Two-thirds of unemployed/inactive persons fall into this legal category (Baethge-Kinsky *et al.*, 2008).

For both these legal entities, advisory, counselling and placement services for job-seekers, together with services offered to employers, have been re-organised according to business management principles. New regulatory instruments have been introduced, which it is hoped will provide an 'activating' stimulus for job placement: profiling, individual counselling, return-to-work contracts, new rules on acceptable jobs, and sanctions. Rights for the unemployed are being replaced by the provision of services, which are subject to assessment.

At the point where the employment system and 'basic protection' meet, two ways of thinking come into contact: the logic of earned income, whose reference point is the labour market and the individual; and the logic of guaranteed resources, which is directed towards the living conditions of the household (the community of need, in the case of 'basic protection'). In a context where there is no statutory minimum wage to protect against poverty while working ('working poor'), 'basic protection', which was designed to be a final safety net, finds itself inevitably linked to the wages system (Baethge-Kinsky *et al.*, 2008).

The priorities for the active promotion of employment have shifted: less help available for a return to stable employment; more subsidies for the creation of mini-companies (*Ich-AG*) and for opportunities to work (*1 euro jobs*). Integration into the labour market is winning out over the creation of proper jobs, quick-fix initiation measures over longer courses of vocational training. Encouraged by the reform process, small part-time jobs not subject to social security contributions (*Mini-Jobs*, see above) are showing a lively development. From around 4.1 million at the time of the first Hartz laws (2002), their number rose to over 7 million in 2007. Parallel to this, the number of jobs subject to social security contributions fell from approximately 27.4 million in 2002 to around 26.1 million in 2005, and only recovered its starting position in 2007, with a little over 27.3 million¹⁵. The extension of a low-wage sector has thus been

15. www.sozialpolitik-aktuell.de

encouraged, based on the empirically unvalidated hypothesis that low wages help to overcome obstacles to recruitment. The absence of a statutory minimum wage has only accentuated this development.

Conclusion

The reforms to the labour market since the beginning of the millennium have introduced a segmentation among unemployed workers – first and second class unemployed – based on the sole criterion of length of unemployment. ‘First class customers’ who are close to the labour market (claiming ALG I) are entitled to an insurance-based benefit. For them, their occupational activity remains the assessment criterion in unemployment both materially – benefit is calculated on the basis of their last net wage or salary – and conceptually, because the aim is to re-integrate them as quickly as possible into the primary labour market. Economic reasons also play a part: the BA has to pay a compensatory amount (*Aussteuerungsbetrag*) to the federal budget for every job-seeker not placed after one year of unemployment.

The long-term unemployed, for their part, are dependent on assistance irrespective of the length of their occupational activity and their level of skills. All links with their previous employment (for which insurance contributions have been paid) have been cut: their level of benefit is determined by the needs of the individual and the household (‘community of need’, *Bedarfsgemeinschaft*); neither their vocational qualifications nor the quality of their previous employment are taken into account. The long-term unemployed cannot claim the right to a return to work in line with their previous career path. The status of ‘Hartz IV beneficiary’ somehow dispossesses them of their occupational identity and reduces them to the status of social benefit claimants. They are the real losers from the reforms to the labour market, all the more so because the State has strengthened the means whereby the personal histories of long-term unemployed workers - a population of around 7 million people - can be monitored on a permanent basis.

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