

Federal Constitutional Court

Proceedings against the Hartz-IV reform before the Federal Constitutional Court
According to the verdict of the Federal Constitutional Court of 9th February 2010, the federal government was required, by 1st January 2011, “to recalculate and make transparent the payment rates for entitled adults and children, to take into account the special needs of children and young people in the calculation of the rates, and to regularly review and adjust the rates accordingly.”

On 23rd February 2011, in the 2nd Arbitration Committee, the central government and the states reached agreement in the dispute over the increase in the rates. With retroactive effect from 1st January 2011, 15 Euro will be paid out for 2011, followed by a monthly payment of 5 Euro. From 1st January 2012, 3 Euro will be paid in addition to the previous amount, giving a monthly payment of 8 Euro.

In relation to the previously paid 359 Euro monthly (simple Hartz-IV payment), this results in a monthly payment for recipients (based on the highest rate for adults) from March 2011 of 364 Euro per month, and from January 2012 367 Euro. This means: the figure has been increased by 2.23%, of which central government will provide 0.08%. [In relation to 7.5 million Hartz-IV recipients: 2.3 billion minus 2.0437 billion (amount from the cancellation of the pension insurance obligation, see below) this gives 256 million; divided by 7.5 million recipients, this gives 34,13 Euro in the annual increase, and a monthly amount of 2.84 Euro. In relation to the amount of 359 Euro monthly, increased prior to March 2011, this gives an increase of 0.8%, in comparison to the current inflation rate of 2.23%. This figure minus 0.08 gives an inflation rate of 2.15%, for which no compensation is made. This in turn is 3.56% of the 100% inflation rate to be borne by the taxpayer.] The rates applicable from March 2011 for children, young people and adults were calculated on the basis of the 2008 Household Budget Survey (National Office of Statistics). This surveys the income and expenditure of 60,000 private households at intervals of five years (over three months) and also collects information on wealth and savings, ownership of consumer goods and living conditions.

In future, the annual adjustment of the rates is to be made on the basis of the household budget survey (HBS). This must still be adjusted in line with its new

purpose. Until this adjustment has been made and data from the specific HBS are available, the rates will be calculated with the aid of price increases and wage developments. The rates will be calculated, and adjusted, with effect from 1st January of each year. From 1st January 2012, the rate will be increased by 3 Euro from 364 to 367 Euro, in compensation for price increases and the rate of inflation.

Measured against the current rate of inflation (2.3%), the increase in the first year 2011 will be 1.39%, and in the second year only 0.082% (assuming an inflation rate of 2.7%). In addition to these increases, the so-called education package is to be topped up, in order to be able to invest more money in school social work and school meals.

The Arbitration Committee, according to an announcement of the federal government, agreed on a method for the corresponding cost reimbursement in communities and federal contribution to the living costs of the long-term unemployed.

On 25th February 2011, the Bundestag and Bundesrat confirmed the legislative changes recommended by the Arbitration Committee (including the education package, see above). The reform was therefore considered to be ratified in the sense of the verdict of the Federal Constitutional Court.

Although the overall package agreed is better than that allowed for in the governments' original draft legislations, Alliance for Democracy must still ask the question of how far this reform will go towards fulfilling the principal objective formulated by Employment Minister Ursula von der Leyen: removing the approx. 4.7 million Hartz-IV recipients permanently from the Unemployment benefit-II fund.

Alliance for Democracy objects to the following:

1. Due to the abolition of the pension insurance obligation, the state no longer has any payment obligation towards Hartz-IV recipients. This relieves the Treasury in an amount which corresponds approximately to the costs of the reform given by the government of 2.3 billion Euro, for a nominal increase which does not even make up for the loss in buying power.

2. Nominally (minimally) increasing rates provide no increase in buying power in the light of current inflation rates, indeed it is actually reduced, not even to mention the reduced rates for the lowest 20% of wage-earners, even though tax revenue is increasing (also due to inflation), and the level of new debt incurred by the nation is expected to fall. Hartz-IV recipients would have had more stable buying power at the previously applicable rates.

The change in legislation called for by the Federal Constitutional Court has been made in the literal sense; Alliance for Democracy however still considers the requirement unfulfilled in essence.

A corresponding adjustment should accordingly have been made, with immediate effect, to at least € 375 per month (which would at least correspond to the full inflation rate).

The reform programme 'Agenda 2010' agreed during the term of office of Gerhard Schröder called amongst other things for the amalgamation of unemployment benefit and social security payments into a new, so-called Unemployment Benefit II. This move, which was intended to save billions, was passed by the Bundestag for 1st January 2005. It received its name (as the 4th part of the legislation for modern services on the employment market) from its inventor Peter Hartz, and went into German social history as the Hartz Acts. Hartz I enabled the introduction of personal service agencies, which take on unemployed persons for a fee and provide them to companies as temporary workers; Hartz II (in force since April 2003) brought innovations such as the "Ich-AG" and "Job-Floater"; Hartz III turned the "Bundesanstalt für Arbeit" into the "Bundesagentur für Arbeit" with effect from January 2004.

Hardly any other agenda reform aroused so much passion as Hartz IV, and it is only too understandable when employees have to fear during their working lives that they will be forced into such a predicament, and their buying power eroded. Nor is anyone immune from such an eventuality.

The market is directed at change and progress, and demands of employees that they adapt and modify their special skills and abilities to the prevailing circumstances. Times of unemployment can be foreseen, and must be accepted in

such a dynamic system. Employees therefore make payments during times of employment to tide themselves over during periods of unemployment. The situation becomes serious however if unemployment becomes a permanent status. This affects the long-term unemployed, who now receive Hartz IV payments, and former recipients of social security, who were included in 2005 on the introduction of Unemployment Benefit II. Apart from a small proportion of social spongers who simply want to exploit the system, all the others are genuine emergency cases who are supported by the social security system. And it is also ultimately also they who finance the state's Hartz-IV reform. The millions of smaller contributions always produce more than a higher tax surcharge on the 5% of the population who hold 95% of the wealth in Germany.

The increase in the rate by 8 Euro and the agreed education package, as could be read in various press releases, mean an increase in expenditure for Germany of 2.3 billion Euro.

It is questionable whether the federal government, by the announcement of this amount, wanted to demonstrate how much it cares for the citizens of this country, but the fact remains: the people are financing the so-called reform, by means of a clever move by the government by means of a marshalling yard into the future. Instead of the cancellation of current pension contributions, and the resulting later loss of pension payments, the shortfall is to be made up by social security financed from taxes. This would also have to be provided by communities. The communities however are fully extended, so that central government is taking over the complete social security of pensioners with immediate effect, in return for which it is making the necessary cuts at the Bundesagentur (4 billion Euro), and which will result in reductions in support payments, such as retraining or further training for the unemployed.

This creates no additional costs for central government. In order to finance this reform, the state is finding 11% from tax revenue. The remaining 89% will be financed by the cancellation of the pension insurance contributions for Hartz-IV recipients previously funded by taxpayers.

Other costs will also be transferred to Hartz-IV recipients, which were previously paid by communities in the form of contributions for accommodation and heating. With immediate effect, fixed rates apply for the calculation of the requirements

for accommodation and heating costs; it can be assumed that the amounts paid by the communities will not cover the costs of the Hartz-IV recipients. No additional costs will therefore be incurred by the communities, who are faced with total bankruptcy.

Seen in this sense, the Hartz reform of February 2011 is in fact no reform at all; with regard to the requirement of the Federal Constitutional Court in its verdict of 9th February 2010 it is an oath of disclosure. Basic legal requirements are not being fulfilled.

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