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**Varying regional strategies in the implementation of an open ended, state-subsidized employment programme in Germany**

In this paper results of an implementation study conducted by the IAB in North Rhine-Westphalia will be presented. The subject of the study is § 16e Social Code II (SGB II), which allows the payment of a potentially open-ended wage subsidy for the employment of formerly long-term unemployed persons. One of the study's objectives consists in the portrayal and description of differences in the law's implementation by the corporate actors in charge, the regional employment agencies. To this end, interviews with representatives from all levels of hierarchy in the regional employment agencies - from the executive director to the case manager - have been conducted and analysed with qualitative methods. The law can be understood to function as an interface between social and labour market politics and its implementation reflects a general social debate which can be sloganized with the following question: Is activation a superior form of social politics? The text will mainly focus on recent developments which seem to be of general relevance for the changes in social politics since the law has in the interim been changed significantly by the political governance technically in charge of the mediation between legislation and implementation.

Two years after the "Fourth Laws for Modern Labour Market Services" (Hartz IV) had come into effect, the reigning coalition in Germany agreed on the observation that in spite intensified efforts of activation the integration of a significant share of the long-term unemployed into the first labour market still seemed highly improbable. This finding motivated a process of policy formation which resulted in the passing of § 16e SGB II in October 2007. This law allows the payment of a wage subsidy to both profit and non-profit enterprises covering up to 75 % of the gross wage for the employment of a formerly long-term unemployed person with multiple obstacles to placement. Following an initial two-year period the wage subsidy is to be granted on an open-ended basis if the recipient still proves to lack a realistic chance of integration into the first labour market. § 16e SGB II can be regarded as a novelty in labour market and social politics: Based on a socio-political motivation the claim of activation is renounced in favour of the provision of

subsidized labour, thus restituting a piece of the accommodative welfare state in the context of the activating social state.

The law's socio-political claim already becomes manifest in a programmatic paper drawn up by Karl-Josef Laumann, chairman of the employee's association of the conservative party CDU and at the time also Minister of Employment in the federal state of North Rhine Westphalia, and Klaus Brandner who at the time held the position of Parliamentary State Secretary in the Federal Ministry of Employment. The subsidy aims at the promotion of economic and social participation and the restoration of dignity on behalf of the person receiving it. The initiators behind the law regard labour as a necessary or even the most crucial prerequisite for a life in human dignity. This applies especially to the normal employment, which is the point of reference for the wage subsidy; it is full-time, subject to social security deductions, based on agreed wages and potentially open-ended. In reference to a differentiation made by Kaufmann one could regard the Social Code II as a whole as social politics of the first order: It seeks to specifically influence social problems on a normatively legitimated basis and is matched by a substantial focus and considerable institutional changes (Kaufmann 2009: 144f.). § 16e on the other hand presents a typical example of social politics of the second order since it is aimed at modifying the established instruments of intervention.

The regional employment agencies in charge of the long-term unemployed are responsible for the programme's implementation.<sup>1</sup> Due to their decentralized governance structures they prove to have a substantial scope regarding the law's specific regional execution. This scope functions as the implementation study's starting point. With theoretical reference to the actor-centred institutionalism as developed by Mayntz and Scharpf (Mayntz/Scharpf 1995) the case reconstructive method of objective hermeneutics (Oevermann 2000 and Maiwald 2005) is applied for the analysis of the interviews in order to present in detail the systematic differences in the decisions of the regional employment agencies regarding the implementation as well as the consequences for the law's target group. The modes of the law's appropriation by the actors in charge of the implementation are of particular relevance - that is the way they interpret the law and the way they fit it into local labour market strategies and existing bureaucratic procedures. The programme's appropriation essentially functions as an interpretative filter shaping and characterising the regional

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<sup>1</sup> In Germany there are two types of organizational models for agencies in charge of the long-term unemployed: it is either a form of cooperation between the local Federal Employment Agency and the local communal social administration (ARGE) or an organization based exclusively on the local communal social administration (zKT).

implementation. The implementation's core problem is posed by the modalities of financing: The regional employment agencies enter into a long-term financial commitment while they receive an annually allocated budget heading by the federal government. At the time of the programme's introduction, the regional employment agencies were allowed a separate and additional budget heading dedicated exclusively to the financing § 16e SGB II. However, there is no definite certainty regarding the allocation of any additional funding for the following years. This situation nourishes the apprehension that the expenses for the new wage subsidy will have to be covered by means from the regular annual budget subsequently reducing the financial leeway for the financing of all activities in the field of active labour market politics. Differences in strategies of dealing with this basic problem are also reflected in the following typology consisting of four distinctive types.

Type 1: "Permeation by letter and spirit of the law"

Type 1 is characterised by its "permeation by letter and spirit of the law". The representatives of this type regard the programme as a highly anticipated and long overdue supplement in the field of labour market programmes. They share the legislator's point of view concerning the fundamental orientation towards work among the persons targeted by the wage subsidy. There is a further conformance regarding the basic assumption that participation in the labour market represents a prerequisite for leading a fulfilling and acknowledged life. Still, the representatives are aware of the financial risk connected with the law's implementation but due to a socio-political perspective willingly put up with the possible consequences for its own sake. § 16e SGB II is understood to be a supplement, even possible correction of the Second Social Code as a whole; it is by no means regarded as an irritation. For the representatives of this type it much more represents an adequate solution to a major problem. The implementation is carried out with considerable commitment and is often accompanied by remarkable organisational restructuring.

Type 2: "Selective reinterpretation as a means of integration into the first labour market"

Type 2 marks a tipping point by changing the focus from social politics to labour market politics. The law's reinterpretation as a means of integration into the first labour market turns out to be one of its crucial traits. A determined implementation can be found here as

well but at the same time the actors in the regional employment agencies adhere to the goal of the integration of preferably all its recipients into non-subsidized labour as normal case. One could say that § 16e SGB II is adapted to the basic logic of the Second Social Code. Thus the termination or at least the reduction of welfare dependence as the central goal of social politics - originally renounced for the clientele of § 16e - is reinstated. This can also be regarded as the wage subsidy's reinterpretation: It is transformed into a temporarily limited instrument of activation which contrasts strongly with the socio-politically motivated strategy of implementation found among Type 1 who strongly identifies with the law's spirit. Consistently the option of an open-ended payment – the law's actual core and novelty – is by and large obliterated. The self-conception of these regional employment agencies highlights the identity as a modern labour market service provider. The executive directors consider themselves quasi-entrepreneurial actors in the regional labour market. Besides, one also finds significant organizational changes to further the programme's implementation in this type. While the first two types advocate § 16e SGB II and its implementation the two following types display a fundamental scepticism or even aversion towards the programme.

#### Type 3: “Potential instability of financing as scandal and pitfall”

The attitude towards § 16e SGB II among the representatives of Type 3, is dominated by the unclear financing of the wage subsidy. While not contesting the basic need for such an instrument the actual problems for the individual budget tend to overshadow the law's socio-political intentions. Due to many years of experience in the field of social and communal administration it is assumed that the initial promise to finance is not going to be met on a permanent basis. In the interviews with the executive directors a considerable amount of anger towards the political governance is expressed: While political and administrative actors on the level of the federal state encourage the attainment of substantial case numbers they still lack political influence on the national level to ensure the future allocation of an additional budget heading essential for the programme's funding. The implementation is marked by caution and the option of an open-ended payment of the wage subsidy is not communicated to the recipients and their employers. However, the implementation as a whole is not being obstructed.

#### Type 4: “Purism in orientation towards integration into the first labour market”

The most determined form of scepticism can be found among the representatives of Type 4, called "Purism in orientation towards integration into the first labour market". Although they concede the existence of the law's target group they still only take § 16e SGB II to be a reasonable supplement to their spectrum of labour market programmes which on no account would justify even a partial repeal of the paradigm of activation. Other than Type 2 the representatives of Type 4 refuse to conclusively integrate § 16e SGB II into their regional labour market strategy. They defy the law's politically propagated status as a universal panacea and strive to hold their ground against the authorities of political governance. § 16e SGB II is understood to be a possible threat to the public image as well as the self-image of a placement agency for the first labour market. There are no organizational changes to be found here and the coordinating efforts are reduced to a mere delegation of the whole implementation process to the individual case managers without giving any further guidelines. It is surprising how contemptuous some representatives of this type speak of the wage subsidy's possible recipients: They don't fit their "philosophy" which aims at highlighting their "customers'" preferences. One could even say that the possible employers should be warned of these people: "Beware! We have a lot of people who are actually completely useless!"

It is essential to stress that it is first and foremost these modes of appropriation<sup>2</sup> of the law which determine the modalities and effects of its implementation while the exogenous factors (settlement structure, regional labour market conditions) turn out to be of little relevance in spite of being the most obvious factors at first sight. The differences owed to these factors are essentially of secondary relevance. Furthermore, the varying modes of appropriation aren't in any way connected with the two basic organizational models of regional labour market agencies in charge of the long-term unemployed. There is no affinity of either type of organization for any type of implementation.

### Political Governance of § 16e SGB II

With regard to the insecurity of the wage subsidy's financing the sceptics have been fully confirmed: There has been a reversal on behalf of the political governance on the federal level which caused considerable trouble for those employment agencies committed to the law's implementation. To shed light upon this fact, the basic chronology of the political

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<sup>2</sup> For general remarks on the cultural-anthropological concept of appropriation see Hahn 2008, Ashley/Plesh 2002 and Hannerz 1987

governance has to be pointed out: In December 2007 the annual regulation containing the allocation of funds for active labour market politics was published by the Federal Ministry of Employment including the number of cases to be reached by each regional employment agency. As it turned out that the actual amount of case numbers generated would not hold up to the articulated expectations the actors on the level of the federal state provided further stimuli in order to increase the number of cases. Now the crucial watershed is marked by the same annual regulation published in December 2009: The calculation basis for the allocation of the additional budget heading for the implementation of § 16e SGB II was amended in such a way that the additional funds would be evenly distributed among all regional employment agencies regardless of the case numbers hitherto generated. As a consequence, regional employment agencies which approved of the wage subsidy and generated substantial case numbers now have to take money from their regular annual funds for all active labour market politics to finance the cases already generated. In addition to that, they have lost any scope regarding open-ended payment of the wage subsidy as well as the generation of new cases. On the other hand the sceptics without substantial case numbers are now given significant leeway for generating new cases and the payment of open-ended wage subsidies.

Although the law still applies, any further attempts aiming at a committed implementation have been sidelined by the agents of political governance on the federal level by means of changing the budgetary modalities in spite of the legislator's manifest intention. It is highly irritating for the recipients of these control impulses that these massive changes are not even presented as what they are but are instead declared to be consequential and in line with the spirit of the law. Asked about the programme's underfunding as a result of the reversal in political governance the law's advocate Laumann succinctly remarked in a newspaper interview in April 2010: "We have taken care of the fact that an additional budget heading is provided." It is to be noted that this remark is not aimed at the allocation of additional funds but the permit to rededicate means from the general annual budget for active labour market politics - means that will subsequently be missing for the funding of other programmes. The committee for labour, health and social issues of the federal state of North Rhine-Westphalia has turned to the Parliamentary State Secretary in the Federal Ministry of Employment in order to suggest the possibility of an interregional compensation to help those regional employment agencies facing financial problems. The proposal was rejected and the Parliamentary State Secretary even boldly stated that the regional employment agencies concerned had "surpassingly used the actually subordinate

instrument (of § 16e SGB II) at the expense of other regional employment agencies". The very people who had literally endured being shouted at by the federal states' Minister of Employment, Laumann, after failing to generate a sufficient amount of case numbers and who subsequently displayed remarkable efforts in the process of implementation are now facing the charge of having acted at the expense of other local employment agencies. This controversy vividly depicts the reversed order of political priorities which is belatedly projected back over the whole period the law has been valid.

## Conclusion

Even though the regional employment agencies can't satisfyingly implement the open-ended wage subsidy without corresponding additional funds all their questioned representatives however stress the ongoing need for such a programme. The drastic changes in the process of political governance can be regarded as an expression of resistance against the socio-political correction concerning the Second Social Code as a whole as implied by § 16e SGB II – especially on behalf of the Federal Ministry of Employment in charge of the budget allocation. This controversy even extends to a general political uncertainty concerning the configuration of social politics: Is activation to be partially suspended or not? This is exactly one of the main basic questions reflected in the varying modes of the law's appropriation in the presented typology.

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