

Social Welfare State Based on the Rule of Law (April 4, 1973)

Abstract

In 1972, the federal government submitted a bill on social law but ultimately postponed it. A year later, Walter Arendt, Federal Minister of Labor and Social Affairs, put it back on the political agenda. Here, he explains the importance of a standardized social law and describes how it would create a unified legal basis for guaranteeing social rights previously covered by different branches of the legal system.

Source

Press Release (excerpt) by Walter Arendt, Federal Minister of Labor and Social Affairs

Social legislation is presently splintered into numerous individual laws. The citizens for whom the laws are made face a jungle in which only a very few can find their way. We want to change that. By creating a social code, we aim to consolidate, coordinate, and simplify social legislation according to uniform principles. Social legislation is to be made transparent for the citizens. At the same time, this should promote the citizens' understanding of the law and their trust in the social welfare state based on the rule of law, should guarantee legal certainty and facilitate the application of the law by the administration and the judiciary.

[...] The social code is designed to concretize the social welfare state clause of the Basic Law by means of social rights, that is, by means of a social charter for the citizens. These rights demonstrate the main ideas of our progressive social policies. They are binding on the administration and the judiciary and must therefore be observed in application of the law, especially as regards interpretation, the closing of loopholes, and the exercise of discretion.

One of the focal points of the draft law is the provision of in-depth information to the citizens by means of briefing regulations. It is assumed that informing and advising citizens of their rights and obligations are among the essential social responsibilities of our time. Anyone seeking advice or information in social matters in the future has the right to be advised thoroughly and quickly by the competent office in the social administration. No one should fail in his or her request because several different offices might be responsible. For this reason, in addition to the duty of the responsible service providers to offer advice, it is also envisaged that certain local offices will provide information on all social matters, irrespective of their specific areas of competence. The law itself is also intended to contribute to better informing the citizen by offering an authoritative summary of all social benefits and the respective service providers.

Another focus of the bill is to strengthen the legal position of the individual through common basic provisions for all areas of social benefits. These regulations are based on the idea that, according to today's understanding of social benefits, they are no longer provided from the "top down," but are a self-evident responsibility of the social welfare state. Consequently, it follows that, for example:

- a legal right to social benefits exists in cases of doubt.
- advances and provisional benefits are to be paid in appropriate cases.
- under certain conditions, interest must be paid on arrears of cash benefits and that they pass to legal successors upon the death of the beneficiary, and
- social benefits cannot be totally removed from legal proceedings; instead, they can be transferred and

attached under preconditions that are reasonable in terms of social policy. Furthermore, the mutual trust between citizens and the social administration shall be improved, for example, by regulations on legal hearings and confidentiality of the private sphere, and by a precise description of the participatory duties of the individual. The integration of disabled persons into the community shall be intensified through additional joint regulations.

Source: Press release (excerpt) by Walter Arendt, Federal Minister of Labor and Social Affairs, April 4, 1973; reprinted in Arnold Harttung et al., eds., *Willy Brandt, Zum sozialen Rechtsstaat. Reden und Dokumente*. Berlin, 1983, pp. 353–54.

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