"Experimental Law-Making" and the Politics of German Pension Reforms

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Introduction:

What happened to the German welfare state, mainly in the field of pension policy? How is pension politics played out in the political arena? To be more precise: How are systemic or path-breaking reforms made possible in a political regime with strong institutional veto points? And in addition: Are the existing theories/concepts powerful in explaining the path-breaking reforms in German pension policy?

In Germany, over the last ten years, various pension reform packages were adopted by various governments. All of them had and still have major consequences for the pensions system and its guiding principles. However, the most important reform was the so-called "Riester-Rente", which introduced a completely new idea in the state-governed pensions systems which sums up to a system change. Although all the other reforms deeply changed the hitherto pension policies, we concentrate on the "Riester-Rente" and ask, how the government was able to withstand the resistance of the social politicians of the main political

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parties, the social partners, mainly the unions, and other well-entrenched interest groups which had strong interests in maintaining the existing system and its basic principles. This major reform was made possible by a new policy-style of the red-green Schröder government that we coin "*experimental law-making*". It is a political venture which deliberately operates with an open-ended outcome and thus presupposes a highly programmatic flexibility by adhering strictly to some core ideas. Using moving coalitions this pragmatic and managerial stile of policymaking can be seen as an explicit and deliberate strategy of the executive to overcome status quo-oriented policies of the traditional social politicians of the political parties, the unions, and other influential interest groups. The German government was able to open up new windows of opportunity and to bring a new managerial style into the political arena. Therefore we suggest to bring the study of politics back in into the study of the welfare state.

We will proceed in four steps. (1) First, we roughly outline the structure of the new pension laws and describe the main changes. (2) Secondly, we analyse and concentrate on the causes, paths and political strategies that allowed the government to introduce these path-breaking changes. (3) Subsequently, we confront our findings with the basic premises of the so-called "new politics of the welfare state" (Pierson 1996; 2001) and outline the political logics of experimental law-making because we consider our concept as a fundamental alternative to the dominant problem-solving paradigm in policy analysis (cf. chap. 2.4.). We will conclude with some remarks for further research (4).

1. The Emergence of a New Regulatory Welfare State: The 2001 Pension Reforms and the shift to a Public Private Mix in Pension Policy

Regarding the German pension reform in 2001, the new coalition government of the Social Democrats (SDP) and the Green Party at first sight was only willing to introduce minor changes, carefully shifting from the public PAYG pension scheme to a new public-private mix. In quantitative terms, the "public element" can still be seen as dominant with regard to the still PAYG-financed "public pillar". Undoubtedly, the shift from public/PAYG financing to a larger capital funding within a public-private mix has been much more radical in many other OECD countries.[1] Yet, the 2001 Reform cannot adequately be understood as a simple structural reform. It is a typical *pioneering law* beginning rather unspectacularly but, over time, altering substantially both the institutional logic and the perception of the actors. Though anything but a 'big bang'-reform, the 2001 pension reform paved the way for a substantial redefinition of the traditional *role* and *function* of both the public pension scheme and individual private (and occupational) provisions since it introduced an intrinsic combination of public social policy *and* supplementary private provision. We argue that this reform did not merely introduce a system change in one of the most sensitive areas of social policy.

A controversial debate arose over the future development when Chancellor Schröder announced that one major aim of the government would be the reform of the social pension insurance. This happened right after the election of the new red-green government (a coalition

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[1] See e.g. Hinrichs, 1999; Bonoli, 2001; Ross, 2000; Gillion/Turner/Bailey/Latulippe, 2000; Feldstein/Siebert (eds.), 2002.

government of the Social Democrats and the Green Party) in autumn 1998. The new plan should contain costs, stabilise the contribution rate, and "guarantee an adequate standard of living in old age" (our translation).[2] In his first governmental statement in the German parliament in November 1998, Chancellor Schröder proclaimed the introduction of a "real solidarity between the generations" within a new "transparent and sustainable pension deal" (our translation).[3] In November 2000, after more than a year of controversial discussions and substantial alterations, the Ministry of Labour and Social Affairs presented the bill of a two-part pension reform act.[4] It eventually strongly differed from the ambiguous basics of the governmental statement and introduced a partial privatisation of the pension provisions and, simultaneously, a gradual weakening of the role of public benefits. After parliament (the *Bundestag*) had passed the first part of the bill – the new pension formula (AVmEG) – in January 2001, the second chamber (the *Bundesrat*) approved the second part, the new financial support and stimulation of private provision for old age (AVmG), in Mai 2001.[5] The AVmG

[2] See the coalition contract signed by the Social Democrats and the Green Party in October 1998 ("Aufbruch und Erneuerung – Deutschlands Weg ins 21. Jahrhundert" from October 20, 1998, pp. 23-24).

[3] See Presse- und Informationsamt der Bundesregierung, 1998: Die Regierungserklärung von Bundeskanzler Schröder vom 10. November 1998: 32.

[4] „Entwurf eines Gesetzes zur Reform der gesetzlichen Rentenversicherung und zur Förderung eines kapitalgedeckten Altersvorsorgevermögens – Altersvermögensgesetz" (AVmG) and „Gesetz zur Ergänzung des Gesetzes zur Reform der gesetzlichen Rentenversicherung und zur Förderung eines kapitalgedeckten Altersvorsorgegesetzes – Altersvermögens-Ergänzungsgesetz" (AVmEG).

[5] While the first part of the 2001 Pension Reform law – the new pension formula - introducing internal changes could have been

passed both chambers in spite of the resistance of the Christian-Democratic opposition that had tried to block it in the Mediation Committee (*Vermittlungsausschuß*).

Chancellor Schröder called the 2001 pension reform "one of the real historical decisions in social policy" (our translation) (quoted by Schmitz, 2001: 215) – and he was right. The cornerstones of the 2001 Pension Reform were the most fundamental changes in German pension policies since 1957 and add up to a *system change*. The 1957 reform introduced the concept of dynamic pension[6] and - closely linked to it - that of its wage replacement function. Now it is the inseparable combination of both public *and* private pension – which are intimately connected with each other - that will take over the function of wage replacement. The AVmEG[7] provided a reform within the institutional framework of social pension insurance. It aimed primarily at reducing benefits and costs of the PAYG scheme in order to stabilize the contribution rate. Its core policy was the new *formula for the adjustment of pensions* which aimed at slowing down or even stopping the increase of the contribution rate necessary to balance the social pension insurance budget (§ 63 para. 7 SGB VI). According to rather optimistic estimations made by the Federal Ministry of Finance at that time, the contribution rate should not exceed 20% in 2020 – despite an increasing aging of the population – and subsequently should remain below 22% up to 2030. Additionally, the government committed itself

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realized by the decision of the *Bundestag* alone, the tax-financed public subsidies to the new private pension pillar required the consent and approval of the Second Chamber, the *Bundesrat* (representing the states, the *Länder*).

6 The pensions were now adjusted yearly by gross-wage indexation which used a three-year average of the development of the gross wages.

7 BGBl I, 2001: 403-418

to keep the contribution rate below these percentages and to maintain the promised pension level of 67 % of average net earnings (§ 154 SGB VI).

According to this conception, from 2001 onwards pension adjustments will follow the development of net wages only in a restricted manner. This will be accomplished by decoupling the income of pensioners to a large extent from the levels of income on the labour market (§ 68 SGB VI). To keep the complex pension formula simple, two elements will have the effect of deductions or pension-level reduction factors: First, the current pension value *(aktueller Rentenwert)* will be adjusted on the basis of average wages taking only the development of the current level of pension contributions into consideration. One notable consequence is that the adjustment of pensions will be decoupled from other policy areas. Pensioners will therefore no longer profit from positive (or negative) changes in contribution rates for health care, long-term care, unemployment insurance, *and* income taxes. The new formula will lead to minor adjustment rates relative to the development of (real) average net wages. Secondly, from 2003 onwards, the pension adjustment has been reduced in proportion to the increase of the new private provision expenses (up to 4% in 2008): The *fictional* assumption about the increase of the private provision share decreases in proportion to the adjustment of public pensions. This makes sense because it directly influences the level of net wages and, from now on, the development of the public pension level. This provision share is a fictional one for at least two reasons. There is apparently no direct relationship between this share and the *real* expenses of the insured for additional private income. Moreover, this concept of proportional deductions assumes and implies that there will be a comprehensive introduction of private provision which might be a crucial poin,, vis-à-vis the fact that the private pillar is not mandatory.

In short, the first part of the new pension reform puts an end to the net-wage adjustment of pensions which was introduced in 1992 in favour of a so-called "modified net adjustment": an increase in the pension insurance contribution rate and in the fictional savings rate from 2001 on has reduced proportionally the level of pensions. Not economically induced wage developments but *politically constructed* ratios adjust pensions. However, as a result of the new alteration of the pension formula, the 'net standard pension level' (after 45 years of contributions) will slowly but gradually decrease to about 67% (of average net earnings minus the assumed saving rate for private old-age provision) in 2030. That figure was regarded as the absolute minimum level.[8]

This *internal* reform of the PAYG scheme was only made possible on the basis of an *external* supplementary financing of old-age security: the stimulation of publicly subsidised private pension arrangements outside the public sector. In this respect, the second part of the 2001 Pension Reform Act - the AVmG[9] - introduced a system change in the structure of financing and providing old-age security. Now private (and occupational) schemes are supposed to compensate for the cuts in public insurance. While fostering a new shift from social insurance benefits to

8 While in the initial bill the minimum level had been 64%, the government (forced by large sections of the SPD and one of the big trade unions) decided during the policy process to accept 67% as a standard level, promising optimistically that pensions should and would not fall below this level (BT-Drs. 14/5150: p. 25). In combination with the new private provision the maximum total income in old age was expected to be 76% of average net earnings in the future (BMA, 2001a; BMA, 2001b). But such a relatively high income could only be achieved under specific conditions and would have been impossible for most of the individuals insured.

9 BGBl I, 2001: 1310-1343.

voluntary private saving plans, German old-age security has become a hybrid system. The new public-private mix combines the concept of a mandatory earnings- and contribution-based, *defined-benefit* public scheme and voluntary, *defined-contribution* scheme. In fact, while the public pension scheme will gradually lose its importance for adequate old-age income, private capital-funded, defined-contribution schemes will increasingly have to fill the provision gap. Both schemes are intimately linked via the new pension adjustment formula which implies a fictitious parallelism: the decrease of the pension level and the increase of private provision (plus rising public subsidies).

The new additional private pension provision is not compulsory as originally planned by the Ministry of Labour in June 1999, rather it actively motivates employees through subsidies or tax incentives to act in accordance with the overall political aim of increasing private and occupational pension provisions. On signing a private insurance contract (or a functional equivalent) which is certified by a new state agency, those compulsorily insured in the public pension scheme are entitled to an annual allowance from 2002 onwards. The tax-financed subsidies are mainly targeted at low- and average-wage earners, families, and single parents. The financial support is being introduced step by step. In 2008 those persons who invest at least 4% of their gross wage (including the public subsidy) in long-term saving plans will receive up to €150 (married couples up to €300) as a maximum allowance. Additionally, a maximum amount of about €180 a year for each child is available for those eligible to receive child allowance (*Kindergeld*). From that year on the state intends to support private saving plans with an annual amount of approximately € 11 billions via direct allowances or tax relief.[10] In order to maintain the individual standard of living in old age, entitled persons have to pay both the relatively high contributions (about 20%) to the public pension scheme and (from 2008 onwards) 4 % of their income for private provision. This is – as F. Nullmeier (2001: 77) points out – the biggest political increase in the contribution rate since 1957; but only for those persons who invest fully in the "Riester-Rente".

We conceptualise this radical policy change in old-age security as a fundamental departure from former policy paradigms and policy beliefs (cf. Sabatier (ed.) 1999; Sabatier 1998; Hall 1993). Moreover, we emphasise that the new market for private pensions is politically constituted and politically regulated. The pension reform gives birth to a new double role for the state in pension policy: a combination of both a re-distributive welfare state and a regulatory welfare state that constitutes and regulates "welfare markets" (Nullmeier, 2001; Hyde/Dixon/Drover 2003). While the new pension policy is indeed a shift within the public-private mix, it would be missing the point to leave it at that. The private sector is not the simple opposite of the public and, in addition, its increased role is not a simple politics of "retrenchment". On the contrary, the welfare state purposely gives room for the expansion of

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10 Although the new private pension is subsidized by taxes, it depends on two additional crucial aspects. Firstly, a private pension provision to substitute the state's provision can only work to the extent that those concerned are both *capable* and *willing* to invest in private savings plans. There was a broad implicit consensus within the new government that there is significant potential for private savings among the working population. And secondly, the individual capability and the willingness to invest in private saving plans had to be additionally encouraged by both a tax reform passed by parliament in 2000 and a reduction in social security contributions.

private markets. The market does not replace the welfare state but becomes an essential part of it. In this respect the 2001 German pension reform is a striking example of the creation of a new market via social policy. Creating, promoting, and regulating this market is now part of the social policy of the democratic state. As a consequence of the 2001 reform, however, the German welfare state is starting to lose its distinctive features as a *conservative type* of welfare state.

2. "Experimental law making": The Politics of Path-Breaking - or: How to overcome veto players?

The "new politics of the welfare state" (Pierson 1996) and other theories of welfare state reforms are powerful in explaining path-dependency but weak in explaining path-breaking reforms which now dominate the picture not least in pension policy. In the following we inductively outline the main characteristics of "experimental law-making" which seem to be the precondition for the politics of path-breaking. "Experimental law-making", as we conceptualise it, is a purposeful strategy of coping with the uncertainty of "veto points" (Immergut 1990; 1992).[11]

2.1. The basic premises of the political economy of pensions reforms

What are the basic principles of the "political economy of pension reforms" (Myles/Pierson 2001) and, closely linked, of path-dependency? Most of the analytical concepts are based on *three* argumentative pillars – or analytical assumptions - which singly or combined with each other constitute the theoretical core of the new politics of the

[11] Concerning the difference between veto players and veto points cf. Jochem 2003.

welfare state literature. These argumentative pillars are regarded to be of utmost importance when it comes to explaining the stability of the welfare state despite enormous pressures for change and retrenchment.

(i) Anthony Down's theory of electoral competition (Downs 1957), from which the premise is deducted that the majority of the population has strong and fixed interests in preserving existing welfare state structures. All adjustments of or cuts in existing structures or programmes are likely to be punished at the ballot boxes. Thus, as governments are afraid to lose power, they try to implement blame avoidance policies and blame sharing instead of credit claiming strategies in order to shift the blame (and burden) on as many actors as possible, including the opposition and major interest groups (Weaver 1986; Pierson/Weaver 1993; Myles/Pierson 2001). As a rule, all major reform policies require the consent (or acceptance) of the people and/or often come up within corporatist "social pacts" (Rhodes 2001) involving organized labour and employers' associations. As a consequence, "negotiated pacts" (Bonoli 2001) have very often been preconditions for reforms, and unilateral legislation by the government seems to be almost impossible (or a rare exception). This theory implies an electoral trap from which politicians are hardly able to escape and, consequently, reform processes are slowed down or are even impossible (cf. Hering 2003).

(ii) A specific perspective on and conceptualization of organizations and organizational behavior which predominantly refers to Mancur Olson's economic theory of interest groups (Olson 1971). Olson not only explains why some groups are able to have a larger influence on governmental policy than others; he also implies that interests of and within collective organizations are predominately homogeneous, fixed and stable over time. Analog to this approach welfare state researchers tend to do *both*, discuss these large organizations, be it unions, employers organizations or political parties, as monolithic and non-divided actors, *and* to take for granted that these collective actors dispose of organizational capacities to push through their interests. It is these theoretical and abstract assumptions (and predictions) about the power, internal homogeneity and collective interests of large organizational entities on which much of the extensive welfare state literature is basing.

(iii) A theory of institutional inertia and persistence, which can be traced back to Douglas C. North's theory of path-dependency (North 1990), and which in general has been connected to George Tsebelis' theory of veto players (Tsebelis 1995; 2002). The path-dependency argument runs like this: Whenever the costs of changing an institutional set-up are high, individuals and politicians have strong incentives to identify themselves with and stick to the *status quo*. This holds particularly true for the welfare state which 'suffers' from a double challenge: First of all, the influence of powerful and well-entrenched interest groups, but particularly the expectations and electoral behaviour of those (growing and heterogeneous) groups that depend on public services and welfare transfers, or even on work income from welfare state institutions and thus have come to base their life plans on the continuation of existing institutions (*Versorgungsklassen*, Alber 1984), make governments tend towards a certain 'welfare state conservatism'. Those actors, the argument runs, are in general oriented towards preserving the status quo. Secondly, drawing on historical institutionalism, policy heritages or policy legacies have a crucial impact on the politics of reforming the welfare state: in many cases they do not simply create legal commitments but pre-determine policy choices and shape future reform trajectories - not least in pension policy. Translated into the political economy of pensions reforms, the assumption is as follows: "How far one has gone down the path of PAYG provision is critical for delimiting reform options" (Myles/Pierson 2001: 313; see also Pierson 1994). In other words, retrenching matured, well-established and generous systems is difficult because, beyond the popularity of these schemes, transition costs are high.

Concerning the veto player aspect, governmental systems with a high number of institutional and partisan veto players have build-in brakes that make changes from the *status quo* unlikely. Such institutional fragmentations have been identified as a factor retarding or impeding policy change. The veto player theory claims to systematically identify who the veto players are and which of them have to actively agree to a proposed legislation. Institutional veto players are generated by the constitution which prescribes which actors have the possibility to block (or agree) to policy change, whereas partisan veto players are generated by the political game. The latter have specific policy preferences which are reconstructed on the basis of party ideologies and/or party programmes. Each political regime has a certain number of veto players, with specific ideological or programmatic distances among them and a certain cohesion which makes up for the capacities to act of each player. All three characteristics affect the outcome of politics which can alter the *status quo* (Tsebelis 2002: 2). It is assumed, that each veto player has relatively fixed and stable policy preferences and that partisan veto players will quasi-automatically play out their veto and thus hinder rapid reforms or path-breaking policies (Tsebelis 1995; 2002; Weaver/Rockman (ed.)1933). This theory claims to "make accurate predictions about policy outcomes as a function of who controls the agenda, who the veto players are, and the rules under which they decide" (Tsebelis 2002: 284). Therefore it is argued that the likelihood of path-breaking welfare reforms in countries with one or few veto players will be much more drastic and successful than in those with multiple and powerful veto players. According to conventional wisdom, Germany is a case book example of a regime unable to push through unpopular reforms and capable of only minor adjustments - not least due to its multiple veto players.

All three theories make up a theory of stability rather than change. They focus on welfare state resilience and are unable (and unwilling) to explain rapid and/or systemic changes. Indeed, all three approaches – as single theories or in combination – tell us an important story of the new politics of the welfare state. It is anything but surprising that in the 1990s welfare state research "documented empirically that welfare states have been remarkably resistant to change notwithstanding the mounting challenges they face" (Hemerijck/van Kersbergen, 1999, 168). However, these theories show only one part of the 'drama' of (non)reforms, but that is perhaps and may be sometimes, the most important part. But again, they do not tell the whole story. The German case is a different story that questions some of the preconditions and premises of the three theories in combination. The concept that we mobilize against the simplistic "'institutions-as-policy-destiny' interpretation" (Vail, 2003, 46) and that we propose is that of "experimental law-making".

2.2. Pension politics before the 2001 reform

The democratic welfare state is not only an institutionalised architecture for (re)distributive or regulatory policies; it is also an institutionalised architecture to organize and resolve political conflicts. Stopping the mechanisms of massive and quasi-automatic expansion, which had been formed in in the institutions of social security in Germany until the end of the Seventies, was carried out by an exclusive corporatist decision-making network. Within the self-administrative bodies of the pension system and the advisory body to the government (the *Sozialbeirat*), unions and employers' organizations worked continually together. In addition, every important reform was accompanied by a committee of the self-administrative bodies, including the pension experts of the unions, the employer's organizations and policy experts close to the commonly shared policy principles. These corporatist networks developed their own reform strategies and achieved consensus among the social partners and other experts. Additionally, the social policy experts of the main political parties normally operated consensus-oriented and had close ties to the self-administrative bodies and the social experts of the social partners. Together they formed an exclusive network of pension men *("Netzwerk der Rentenmänner")* that dominated the policy-making process. Pension policy was played out and decided upon in a closed *political sub regime*; the 'grand politics', i.e. the constitutional regime and the parties with their ideologies and programmes were downgraded to mere instances of confirmation (cf. Nullmeier/Rüb 1993). A case book example was the major 1992 pension reform. It ended the debates about fundamental changes of to the pensions system (e.g. negative income tax, flat-rate pensions, and so on) and made clear that fundamental reforms are possible and successful *within* the policy principles and policy beliefs of the *existing system* (for details cf. Nullmeier/Rüb 1993; Lamping/Rüb 2004; Schmähl 2003)

As in all corporatist networks, decision-making was a complicated and time-consuming process of arguing and bargaining. Three intertwined developments untangled this stable corporatist network. (i) From the 80s until the end of the mid-90s pension policy was not relevant in election campaigns. However, from 1996 on, this consensus was abandoned, pension policy became again part of the electoral competition and all major reforms were unilaterally imposed on the opposition. (ii) The employers' organisations openly and often claimed that social security contributions would weaken their position in the world market. Compared to the 1990's, they changed their preferences and began to leave the policy network. Moreover, they became more heterogeneous and less able to act as a unified and powerful interest group. They were no longer able and no longer willing to act and compromise within the corporatist network but changed interest politics to lobbying. The same holds true for the industrial unions. (iii) Political parties underwent organizational changes with far reaching consequences (Katz/Mair 1995; Katz/Mair 2002). They were challenged by the weakening of party alignments and, consequently, by an increase in voter's volatility. The effect of short term influences on voters' behaviour became more important and made party competition more relevant.[12] In the CDU as well as in the SPD and in the FDP, a new generation of party politicians, that emerged during the 90s, weakened the link between the 'party in public office' and interest groups. Whereas the former social politicians mainly grew up in interest groups or with close links to them, the new generation had been socialized only within their parties and are more oriented towards electoral competition and their individual careers (Trampusch 2005b). Social policy shifted from social politicians and the corporatist networks to the professional party elites. Thus new opportunities arose for the party elites to engage in social policy issues, trying to benefit in inter-party competition. And this (iv) opened new windows of opportunity for policy entrepreneurs inside and outside of the government to push new policy ideas onto the political agenda. Mainly the policy advisors in the Chancellor's Office (*Bundeskanzleramt*) as well as ad hoc commissions advocated not only a new pension policy but a new style of decision-making.

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[12] The debate on this issue is controversial; cf. Saalfeld 2002; Scarrow 1999; Mair/Müller/Plasser (eds.) 1999.

2.3. The processes of "experimental law-making" in the context of the 2001 reform

As mentioned above, the so-called "Riester-Rente" was a path-breaking law and the first reform after the Second World War which broke with the hitherto established policy principles. Where did the main ideas and principles of that reform come from, who pushed them trough and with which arguments and/or strategies? Which veto players tried to veto the reform and thus had to be circumvented? Why was the government able to decide on an policy which was not in line with the main programmes of the coalition parties? These are the empirical questions we want to deal with in the following.[13]

In his first *governmental statement* of the Red-Green government in November 1998, Chancellor Schröder announced a reform of the pension system which should contain costs, stabilize the contribution rate, and "guarantee an adequate standard of living in old age." In addition, he proclaimed the introduction of a "real solidarity between the generations" within a new "transparent and sustainable pension deal".[14] Beside this typically ambiguous statements, the most important announcements were astonishingly close to the SPD election programme. For all new labourers, the future pension pact should rest on four pillars: The state run PAYG pension system, occupational pension systems, private insurance, which will be fostered by the state via tax subsidies, and the shareholding of the workers in the productive capital and assets of the companies, respectively. The *coalition contract* announced

13 The following is based on a series of interviews taken with the main actors of the pension reform. We promised all interview partners anonymity.

14 See Presse- und Informationsamt der Bundesregierung, 1998: Die Regierungserklärung von Bundeskanzler Schröder vom 10. November 1998: 32.

nearly the same. As a new pension pillar the workers should partake in the productive capital and assets of the companies. Interestingly, in both documents the new idea focused on this pillar and not on a private insurance as a supplement to the state pensions. The so-called “Riester-Rente”, which later became the main point of the reform, was clearly not the government’s main project. In addition, compared to the election programme, the main focus of the pension reform shifted from reforms within the state run system to the creation of that new pillars. And these, clearly, were the marks left by the new minister of Labor and Social Affairs, W. Riester, on the governmental programme. The green coalition partner seemed to have no real interest in pension policy. The coalition contract and the government declaration were nearly literally identical with the electoral programme of the SPD and the greens left no mark on either of the two. They played no role as a partisan veto player, they simply went with. And the “Riester-Rente” had still to wait to rise to the top of the agenda and still to wait for W. Riester passing by.

Where did the vague ideas for the reform concept come from? As far as we know, reforms in other countries played, if at all, only an extremely marginal role; the same holds true for the concept of the World Bank (World Bank 1984). We found no single evidence that the World Bank’s concept played any role in the development of the reform ideas. On the contrary, W. Riester in his autobiography recounts an anecdote about his stay in the USA. Invited by the IWF and the World Bank, he proudly reported about the reforms of the new government, including the pension reform, without making any reference to the ideas of the World Bank (Riester 2004: 100-102). Neither political learning nor a proper problem solving instrument to deal with the future financial crisis of the German pension system was the origin of the new pension concept. On the contrary, it mainly stemmed from inner-party conflicts within the SPD before the 1998 election.

In the advent of these elections, the SPD prepared for the election campaign. When Oskar Lafontaine became head of the party, his competitor Gerhard Schröder was asked to take the lead of the *Arbeitskreis Wirtschaft* (Working Group on Economy) which consisted of several managers and entrepreneurs close to the Social democrats. At the end of 1997 and by mere chance, a lively debate arose around the 1994/1995 ‘peso crisis’ in Mexico, which, mainly caused by US pension funds, resulted in a break-down of the Mexican economy and, most important, the occupational and, to some extend, private pensions funds. As a result of that discussion, the idea that the state should hold responsibility for and should regulate occupational and private pension funds was deeply entrenched in the minds of the participants. However, during that time this idea was not related to any specific policy; it simply was an idea ready to be coupled to different policy options.

Parallel to the *Arbeitskreis Wirtschaft* the so-called forum „*Dialog Wirtschaft*“ of the Friedrich-Ebert-Stiftung, which is a foundation close to the SPD, started to discuss new ideas for a new social democratic programme in regard to the 1998 elections. This forum represented the ‘right wing’ of the SPD, the so-called “*Managerkreis*”, who tried to develop a new and modern social democratic profile. The intention of the pro-Schröder group within the forum was to explicitly develop a specific modern concept for a possible future candidateship of Gerhard Schröder. In addition, it was intended as a programme against the left wing of the SPD which was extremely close to the leadership of the unions. The social politicians of the SPD, and mainly the pensions experts, where part of that traditional left wing close to Oskar Lafontaine.

In September 1997, the forum *“Dialog Wirtschaft”* drafted the so-called *“Dresdner Thesen”*, which tried to outline that new and modern programme, caused a nation wide public interest, and were literally reprinted in some German newspapers.[15] The *"Dresdner Thesen"* attempted to make a mark against the mainstream within the SPD and to gain public attention. For the first time in a social democratic programmes it was vaguely argued for a new pension concept, that besides a needs- based- basic- income scheme should include more individual self-responsibility and the partake of the workers in capital funds of the economy (Thesis 8). In addition, every worker should set up a second *permanent* income scheme based on participation on assets of the economy. Legislation should provide incentives and legislative regulation for mainly occupational pensions schemes (Thesis 10). The *"Dresdner Thesen"* were precise enough to outline these new ideas and, at the same, vague enough to be open for various designs depending on the political circumstances within and outside the party. They can be understood as the starting point for the Riester-Rente, which in fact and eventually is much more a "Schröder-Rente", though he was not practically involved in the formulation of the paper. However, he was regarded as its mentor and *spiritus rector.*[16]

Some month later, in April 1998, the advocates of these new ideas, particular in the Lower-Saxony state chancellary, succeeded in implementing some of these ideas in the so-called "*Leipziger Wahlprogramm*" against the resistance of the traditional social politicians around R. Dreßler. The draft was written the evening before the party congress took place and under extremely high time pressure, which fostered compromising and enabled the

15 See in „Die ZEIT" 39/1997.

16 We owe this empirical evidence to Bernhard Blanke.

reformers to "smuggle in"[17] some new ideas without causing any serious debate.

This programme was much more inconsistent than the *"Dresdner Thesen"*, in that two different and contradictory policy concepts coexisted. On the one hand, the claim to reform the pensions within the existing system; on the other hand, some again vague ideas about non-state pension funds, that should complement the existing system.[18] However, the programme states: "One aspect is essential for the pension reform: We stick to the contribution- and benefit-oriented pension." (p. 31; our translation) Thus the traditional wing in pension policy was successful in making that final statement. But from that point on, the new policy idea, still being more or less an 'alien' element in the traditional social policy programme, was part of the official programme of the party. Thus it became a point of reference for those who wanted to break with the traditionalists and who envisaged a policy change. The electoral programme signalled a new power relation within the party, because the modernizers, being in a minority position and not being able to formulate the party's social policies, for the first time left an ambiguous, vague and woolly mark in an official party document. But as mentioned above, during that time the main focus was on the set up and the partake of the workers in occupational assets, mainly regulated by the social partners.

After the victory in the 1998 elections, the new government had to first fulfil its electoral promise and to revoke the demographic factor that was introduced by the outgoing CDU/CSU/FDP-government. This promise was made by a more or less private initiative by O. Lafontaine,

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17 This was the formulation of one of our interview partners.

18 Cf. "Arbeit, Innovation und Gerechtigkeit – SPD-Programm für die Bundestagswahl 1998"; Beschluss des Bundesparteitages der SPD vom 17. April 1989 (vorläufiger Text), p. 29-31.

the party leader of the SPD, to the leaders of the unions and was contested within the party. A heated debate arose during the discussions about the coalition contract. The hitherto leading social politician and pension expert of the SPD, R. Dreßler (and his followers), led the negotiations. “I was only sitting aside – as an interested contemporary witness -, designated Minister to or fro”, Riester lamented later (Riester 2004: 83). Dreßler’s policy option was to simply cancel the demographic factor, because he was convinced that the new government would be able to strengthen the contribution basis of the pension system via various measures. On the other hand, Riester’s position clearly was to compensate for it, because it seemed plausible for him that the actual pension levels could not be saved by stabilizing the contribution rate to the state-run pension system. These measure would drastically reduce the pension level and, as a consequence, should be supplemented by non-state pension claims. However, this agenda was extremely ambiguous and the idea of the partaking of the workers in occupational and/or other financial assets (so-called “*Tariffonds*”) completely unclear. In the end, a compromise was effected to only skip it for two years. Dreßler was satisfied because he hoped that the government would not reintroduce it in the advent of new elections and, in addition, that there would still be time to renegotiate that compromise. Riester was satisfied because he gained time for campaigning for his idea to compensate for that very factor. The Green members of the working group were indifferent, only a minority supported Riester. In general, they were not strongly interested in that issue and gave way for the policy options of the social democrats.

However, Riester’s policy idea during that times was, that the social partners should invest a fixed rate from the collectively agreed wages into occupational fonds. That capital should be invested by the firms themselves in the near future, and in the long run be used to additionally finance the workers pensions. However, it became clear that the leaders of the unions were not willing to agree upon his idea. The traditional social politicians in the unions strictly refused it. Even the head of the IG Metall, Klaus Zwickel, who before the elections was indifferent, now also refused the idea. The employers organizations took to Riester's ideas and, even before the elections, supported Schröder's idea to appoint Riester the possible Minister of Labour and Social Affairs. As long as only one of the social partners refused the introduction of the *"Tariffonds"*, the policy option was simply not realizable. As a consequence, there was only one other option: namely to introduce private insurance rather than the envisaged *"Tariffonds"*. In that situation, in which the Ministry was *running out of options*, the *Riester-Rente* was born. It was strongly fostered by the chancellor's office as all the main ideas were discussed and designed there and not in the Ministry of Labour and Social Affairs. The main ideas became now clearer and clearer and, in the beginning, focused upon three points: (i) an obligatory private insurance for all future workers, (ii) the stabilization of the contribution rate via the eco tax and, in addition, via the pension adjustment according to the inflation rate and not to the net wages, and finally (iii) a so-called compensation factor *("Ausgleichsfaktor")*, that should continually reduce the pensions compared to the actual pension formula. These ideas were discussed in June 1999 in the chancellor's office in a small circle of politicians.[19] The participants agreed upon maintaining silence in order to have enough time to

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19 The members were Chancellor Schröder, the chief of the chancellors office, Frank-Walter Steinmeier, Finance Minister H. Eichel, his Staatsekretär Heribert Zitzelsberger, and the leader of the parliamentary faction of the SPD, Peter Struck, as well as his substitute Ulla Schmidt; cf. Riester 2004: 138.

develop the ideas further and to prepare for the expected resistance of the Unions. However, a few days later the SPIEGEL reported that the government did not keep to its electoral promises and planned an electoral fraud by not adjusting the pensions according to the wages. Even within that small circle of insiders, at least one of them had an interest to boycott the reform via informing the media. However, the BMAS designed the key points of the reform and made them public on June 17, 1999.[20]

Immediately, populist and conservative newspapers, mainly the “Bild”, the political opposition, Unions, and other interest groups started a heated campaign against the obligatory character of the private insurance. Again, the strategy to deal with that politically dangerous campaign was designed in the Chancellors office. The decision was simply to give in as soon as possible and waiting for the time to come, having the realistic expectation, that voluntary insurance will not work. If the public would realise that it doesn’t work, the government then could later implement its original idea of obligation. This idea was the first preference of Chancellor Schröder. However, it is still unclear for us, who decided to start the reform process with the intention to make the private insurance obligatory.

On June 23, 1999, the Cabinet discussed and decided the guide lines for the reform, in which the private insurance was not mandatory. As far as we know, there had been no explicit conflicts about the basic principles; but still important members of the parliamentary faction, mainly the social politicians, opposed the new ideas. The then Minister for Health Care, Ulla Schmidt, which was at the same time the substitute leader of the parliamentary faction, was among them. The social-democratic party

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[20] Eckpunkte zur Reform der Gesetzlichen Rentenversicherung, Bundesministerium für Arbeit und Sozialordnung,. Juni 1999, Berlin.

itself was unsecure and the resistance against the reform was strong. There were no serious attempts to convince the party members of the reform concept and thus they were left in an agony. The party was made additionally insecure because the Social Democrats lost one *Länder* election after another; and opinion polls clearly demonstrated a dramatic decline in support by the members and voters of the Social Democrats. In Saarland, the then Prime Minster, Reinhard Klimmt, openly opposed the pension reform and announced that he would not vote for it in the Second Chamber, the *Bundesrat*. This demonstrated the deep conflicts with which the party was plagued.

However, the government proceeded to clarify and substantiate the key points of the reform. On January 15, 2000 the working group on pensions publicized its "Eckpunktepapier". In May 2000, the pension experts of the Ministry and of the coalition parties had a seclusive meeting in which the concrete outline of the reform was developed.[21] For the first time the government announced the introduction of a compensation factor ("*Ausgleichsfaktor*").[22] As a result the pensions should fall from nearly 70% to 54% in 2050 due to that newly introduced factor (Dünn/Fasshauer 2001: 270). In addition, the compensation factor was a linear factor and would have had the consequence, that the extent of that very factor would depend on the number of years during which the labourers would be able to build up their private pensions. Thus future pensioners would have had lower pensions then

21 Cf. Konzeptpapier vom 30.05.2000: Deutschland erneuern – Rentenreform 2000 – Gesetzliche Rentenversicherung und kapitalgedeckte Zusatzvorsorge: Der Weg in eine sichere Zukunft, Konzeptpapier der Koalitionsarbeitsgruppe vom 30. Mai 2000, Berlin.

22 The compensation factor was ill designed. It was a linear factor which had as a consequence, that

the current or newly incoming. On the other hand, private occupational and/or other income forms should compensate for that decline. It was expected that the real income level of the pensioners would rise up to about 80% of the last net income. When these results became public all interest groups, mainly the VDR, the unions, and the VdK, strongly opposed the idea as did the political opposition. As a consequence, the members of Social Democratic Party and the parliamentary faction were highly alienated and continued to resist the reform.

The pension reform was now at a cross-roads. Riester immediately tried to convince the Unions, mainly the leader of the IG Metall, Klaus Zwickel, by promising them to increase the envisaged pension level to 64% or 65%. But how would the members of the unions react? Zwickel decided to carry out a test during a regional conference of the IG Metall. The members were not too enthusiastic, but they cautiously agreed; so one could expect, that the other union members would eventually agree. The next step was to convince the SPD-Union members *(SPD-Gewerkschaftsrat)* in the beginning of September, 2000. Riester outlined the main ideas of the reform and was able to work out a compromise. The leaders of the Union now agreed upon the main points of the reform and, as a consequence, the parliamentary faction, too. The reform idea now seemed to hold all the necessary backing.

However, the process turned out to be much more complicated then expected. At the ÖTV-Congress on November 5th, during a speech in which chancellor Schröder promoted the reform, soeme union members started to vehemently protest. He responded with his famous statement: “It is necessary and we will do it, basta!” The unions self-assurance could not accept this communication style and the fragile compromise started to break apart. But the main problem for the government posed the proposal of the VDR to completely skip the compensation factor and thus keep the pension net level with the hitherto 70%. The leaders of the unions, never really convinced by Riester's concept, immediately joined that idea; later the parliamentary group, led by Peter Struck, followed that line. Behind the back of the responsible Minister, they reached an agreement with the unions without consulting and informing W. Riester by promising them to promote an own idea in line with them. This event threw light on a deeply divided party in *public office*, not to mention the party in *central office* and the party *on the ground*.[23] Thus, the consensus broke down and the government again stood alone.

Things deteriorated during the public hearing in the Committee of Labour and Social Affairs of the Bundestag.[24] All interest groups, except the entrepreneurs organizations, and nearly all pension experts turned against the government's proposal, especially the compensation factor, and the media widely covered the conflict. As a consequence, the government decided to skip that factor and push through the private pensions scheme. The advantage of that heated discussion was the introduction of the private pension scheme and, as an unavoidable consequence, the smooth reduction of the net pension level via the new pension formula. However, only two years later, the SPD/Green government introduced the so-called "sustainability factor", which reduced the pension level more than the formerly so heatedly discussed compensation factor. And, paradoxically, the same interest groups, which then had protested against it, only two years later fostered the "sustainabilty factor", which lowered the pension level even further than the compensation factor which they had so strongly opposed two years before.

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23 The terms are from Katz/Mair 1993; Mair 1997: chp. 6.

24 Cf. Stenographisches Protokoll des Ausschusses für Arbeit und Sozialordnung, 69. Sitzung vom 11.Dez.2000, Protokoll 14/69.

In addition to that “stop-and-go”-process, the government used a strategy of “powering” and “polarization” (Hering 2003). *Powering* means, that the Schröder-government introduced a new alternative into the political arena and coerced all political forces, including their party and parliamentary group, to reposition them in relation to his alternative. Powering is a strategy to decide first and then to start negotiations with the respective political agents meaning a completely different sequenzing of reforms compared to the blame avoidance-model. *Polarization* means that the Schröder government did not try to persuade their party but deliberately broke apart the existing party consensus. His decisiveness, his persistence, and his strong position as chancellor guaranteed the survival of the new pension idea. The left-wing of the party and the Unions massively protested against the decision but were unable to fundamentally change it. Polarization is a strategy that forced party officials and members of the parliamentary group to decide to either back or to oppose his immovable position. Thus, the left wing of the party and the unions eventually accepted these new ideas and then negotiated some minor changes which they enthustiasticly celebrated as “great success for the left wing” and as a “truly Social Democratic pension reform” (Nahles 2001: 4; cited after Hering 2002: 16). However, it was chancellor Schröder who successfully defined a new “truly Social Democratic pension reform” and his critics accepted it. Within one and a half years the core executive was able to break through the party’s programme and push through a completely new pension agenda.[25]

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[25] For a detailed account cf. Hering 2002 and Lamping/Rüb 2004.

2.4. Tentative conclusions: The political logics of experimental law-making

We conclude tentatively by outlining five main characteristics of the political logics of experimental law-making.

(i) New policy ideas do not develop through exogenous shocks, as supposed by some analysts (cf. Sabatier/Jenkins-Smith 1999) but through endogenous self doubts of important policy makers. However, ideas have to wait until their time has come (cf. Kingdon 1995). To intimately link the public pension and the newly introduced private pension was not the government's first preference, especially not of the Minister of Labour and Social Affairs, W. Riester. He at first preferred occupational funds, the so-called *"Tariffonds"*. When the Unions started to withdraw their support, he had to adjust to that new situation. As a consequence and – if at all – as second best preference, he developed the idea of the obligatory private insurance, which again in his final structure was a second (or may be the third or forth) best option. From the beginning, the policy options were completely vague and ambiguous and had been concretized depending on the situation and the respective power relations structuring them.

(ii) As a consequence, and as a striking difference to the hitherto pension politics, it was a relatively unprepared and unplanned style of the decision-making process and the situational and ad hoc consensus forming. The reform turned out to be a stop-and-go-process in which the government introduced a rough idea into the political arena, observed the reactions of the actors involved, and reacted ad hoc. This is a strategy which C. Offe coined "creative opportunism" and in which actors try "to make use of windows of opportunity and to capture options for winning agreements of new rules (or policy options, W.L./F.W.R.) as they emerge, often on the basis of *ad hoc* proposals that are mixed, impure, and second best in terms of clear principles and priorities" (Offe 2001: 368). Policy options and the decision for a policy do not emerge on the basis of a detailed and elaborated master plan, nor on the process of political learning, nor as the result of deliberate arguing. Rather they are the result of the somewhat "messy logic" (Offe 2001: 368) of what we call 'experimental law making'. Politics is not about solving problems, in which there is a causal relationship between *a* problem and *a* rational solution; it is moreover a permanent and uncertain experiment with the contingencies of the external environment and the internal events. The former points at the uncontrollable and unknowable streams of events in the interplay of the various systems of modern societies; the second focuses on the unexpectable and unforeseen political actions, intensity of partizipation and changing programmatic positions of the political players involved.[26]

(iii) Experimental law-making is also about the *management of time* which includes two dimensions: first it is the ability to anticipate or push open windows of opportunities, i.e. to make the first move, come up with a surprise, or to use (or produce) time pressure to compromise. It is, secondly, about the sequencing of the decision-making process: "powering" and "polarization" is a strategy of managing time, namely not to begin with consulting, bargaining, arguing, or compromising, but with powering and polarization so that other political players are forced to position themselves within a newly created programmatic space. Thus, path-breaking policy reforms turn out to be the business of political leaders or political entrepreneurs instead of moderators, compromisers, and coalition builders.

(iv) Experimental law-making will set in motion political self cycles (Nullmeier/Rüb 1993: 64), in which

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26 These arguments can be traced back to Kingdon 1995 and Zahariadis 2003.

politics react on itself. Due to the messy logic of the policy decisions, politics will have to adjust, to rearrange, to correct, to specify its former decisions. In addition, all actors involved will try to change it again and leave a better mark on the decision. Politics, then, does not deal with 'societal problems' in the strict meaning of the terms, rather it deals with genuinely political or genuinely politically created problems.

(v) The stable and institutionalised but informal consensus-building of the former corporatist networks was superseded by un-institutionalised and spontaneous actions. For instance, the most important intervention of the Unions was accomplished via a telephone call to the Federal Chancellery. The "telephone protest"[27] caused the government to change the envisaged pension level from 64% to 67%. Interest groups did not use the formal veto points or did not try to act as veto players; instead they preferred *ad hoc* lobbying beyond corporatist networks. In addition, the main locus for interest representation shifted from the corporatist network or informal coalitions organized and moderated by the members of the Ministry of Labor and Social Affairs to the chancellor's office.

In addition, three important dimensions can be constructed next to the above mentioned three core concepts of the "new political economy of the welfare state" (cf. chp. 2.1.above):

(i) Politicians did not only react on voters' preferences through blame avoidance strategies; on the contrary, they started to act on those very preferences. The media, the professionalisation of politics, and the employment of new strategies enabled them to try to influence or even manipulate voters' preferences. These strategies are well known in political science: story telling (Stone 2002), the

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27 cf. *Der Spiegel* 5/2001 titled a report on the policy-making process: "A telephone call is enough".

framing of contexts (Rein 1993; Rein/Schön 19XX), the "art of political manipulation" (Riker 1986; cf. Zahariadis 2003), the political construction of an imperative to act (Cox 2001), populist campaigns, and, last but not least, persuasion by arguing - to mention only the most important concepts. They all indicate that preferences are not fixed and politicians indeed constantly try to alter them, thus opening new opportunities. In the 2002 elections, the red-green government was re-elected and not punished by the voters.

(ii) The structure of interest groups and interest group representation matters. The same holds true for the number and structure of veto points. However, this is again not an unchangeable constellation in which politicians are trapped. First, the employer's organizations changed their preferences during the 90ies. At the beginning of the 90ies they were strong defenders of the social security system and therefore all reforms should be systemic reforms. Path-breaking was no strong preference. During the 90's, the internal homogeneity decreased and different, path-breaking, agendas occurred. In addition, interest representation shifted from stable corporatist networks to ad hoc lobbying vis-a-vis the government. The same holds true for the Unions. They are plagued by decreasing homogeneity, dramatic loss of members, strong difficulties to formulate their interests and strategies in the nationally and globally structured world. They try to find new areas for activity and some of the unions, mainly the chemical and the metal unions, started to engage themselves much more in occupational social policies. In Germany, the chemical and metal unions were eventually in favour of strengthening occupational pension schemes which are now subsidized by the state. Unions may not resist but be in favour of welfare state retrenchment if it shifts responsibility not to the market but to collective bargaining agreements. So lower wages may be traded off against occupational welfare. Thus, the unions or at least some of them did not resist but fostered retrenchment strategies of the state (Trampusch 2005c).

(iii) The path-dependency-argument in mature pensions systems is a strong argument. Whole-scale transformation is indeed impossible, because the double-payment problem is severe and only minor changes may occur (Myles/Pierson 2001: 312-320). However, these changes must get started as "direction setting laws" (*Weichenstellungsgesetz*) which, at first glance, introduces only minor changes. In reality, however, it puts pension policy on an irreversible course that will constrain all future governments and determine all future pensions politics and policies. Thus, systemic and path-breaking reforms very often start unspectacularly.

Concerning institutional veto players (and according to the party-political 'rules of the game' of German federalism), the Federal Government tried to quarry out some of the *Länder* (federal states) that were ready to veto the 2001 pension law. It was forced to bargain with and to make financial compensation to the *Länder* (in May 2001 the red-green government did not have a majority in the *Bundesrat*). The following example might illustrate the situation: The Federal Government succeeded in receiving the consent of the Berlin and Brandenburg *Länder* via financial compensation for pensioners' "social security" and the promise of new jobs via settling down the certification agency in the very *Länder*. Moreover, the Federal Government managed to "bribe" some Christian Democratic *Länder* through extra benefits and thus to break party alignments in the *Länder* chamber.

3. The Political Consequences of the New Pension Laws: Messy Policies and Conflicts of the State with Itself

The new pension laws have enormous consequences for both the (i) *quality of pension policies* and (ii) the *quality of future pension politics.*

(i) "Experimental law-making" provides indeed some advantages for path-breaking politics. However, one major disadvantage might be the inconsistency or the "messy" character of approved laws. Given the fact that consensus-building is an *ad hoc* business and contingent upon the strategies of the opposition, veto players and various interest groups, the consistency and expected impact of adopted laws can be watered-down. Reforming the reform seems to be unavoidable and will thus give rise to a new cumulative process of problem-treating in which politics has to react on itself.

(ii) The second major consequence of the 2001 reform is that the welfare state will become internally segmented, which will lead to possible conflicts of the (welfare) state with itself. On the *horizontal plane*, two new Federal Ministries are now engaged in policy-making: the Ministry for Economics and the Ministry of Finance, the latter now a key player in reform processes because it is responsible for the extent of tax-financed public subsidies and – as before – for the amount of the Federal Grant. It acts both as a major agenda-setter and as a "drop-in centre" for new interest groups The Federal Ministry of Labour, the former central actor in the pensions arena, is now confronted with other segments of the state which offer different problem-solving strategies, different social policy alignments, and different institutional self-interests. Re-distributive social policy is now in competition with other state interests. In the area of pensions policy the state no longer acts as a unified political player but is divided into several parts.

On the *vertical plane*, the new pension policy brings the *Länder* back into play. The Second Chamber (*Bundesrat*), composed of representatives of the *Länder* governments, is now (potentially) a powerful veto-player in pension politics. Essential elements of pension policy require the consent (an absolute veto) of the *Bundesrat* (according to art. 79 para. 2 of the Basic Law). The subsidies for the private provision are financed via the tax yield from the income tax, which is divided between the Federal State and the *Länder*. Pension policy has irreversibly become part of the particular logic and complex interplay of collaborative federalism and party competition, the outcome of which is often judged to be "sub-optimal". To give but one example. The 2001 pension reform demonstrated that the (financial) interests of the 16 *Länder* differed strongly from those of the central government. The Federal Government was forced to bargain with the *Länder* (in May 2001 the red-green government did not have a majority in the *Bundesrat*). "Packaging", policy concessions, and side-payments proved a way out of these conflicts.

As mentioned above, these high political costs of formal decision-making may be reduced through "experimental law-making" which, as a policy style, will become more and more important in future pension politics. This holds particularly true since pension policy as a policy field has significantly diversified alongside new 'sub-policies', new policy arenas and new lines of conflict described above. The policy-specific structures and actor constellations have changed, and this will have major repercussions on future decision-making processes in pension policy. Some actors have been weakened (like the corporatist actors or the traditional pension policy network), others have been strengthened in relevance (like the insurance industry), or become a new 'eye of the needle' in pension politics (like the Ministry of Finance or the Second Chamber). It is within these new policy networks where future conflicts about pension policy - not least about policy blockades and compromises - will be carried out. It is these micro- and meso-level politics which are relevant when it comes to analysing the new politics of pension policy, in contrast to macro-level theories which try to capture the "big picture" through broad lenses while focusing on large-scale conditions such as political institutions.

4. Conclusions

Which conclusions can be drawn from the study of recent German pension reforms? We distinguish between two analytical levels: the level of *welfare state politics* and the level of *welfare state research*.

Concerning *welfare state politics*, one can resume our findings as follows: Germany is widely regarded as an example of strong path-dependency and resilience. Indeed, in respect of constitutional arrangements and institutional features, the German political system can be understood as an elaborated structure of institutional checks and balances and numerous veto points along the chain of decision-making which makes policy stable or slow, incremental change much more likely than any kind of path-breaking. However, our analysis emphasises the flexibility and successful changes in the pension system made possible by what we coin "experimental law-making" which side-stepped the former exclusive pension policy network and the well-entrenched corporatist actors and strengthened the government's role as the strategic centre of policy-making – especially the role of the Federal Chancellery. In 2001 the government adopted a double strategy that was clearly aimed at increasing the political feasibility of the reform, for it combined a politically more inclusive approach of making concessions to political key actors whenever politically unavoidable with an effective strategy to neutralize veto points and veto players in the arena of German pension policy.

The politics of the German government have been marked by what Offe called ”creative opportunism” (Offe, 2001: 368). We have provided evidence that governments can be denoted as ‘creative opportunists’ - insofar as they succeed in being both pragmatic and creative in opening-up new 'windows of reform', be it via least experimental law-making, far-reaching concessions to potential veto players and powerful interest groups, or be it via subtle strategies of blame avoidance. Conflicts of interest can only be ‘tamed’ when governments chose a strategy which help managing a bundle of political risks and trade-offs because in the ‘new politics of the welfare state’ governments are simultaneously – and perhaps predominantly – concerned with solving their *own* problems. In welfare-state restructuring or retrenchment it is these ‘purposeful opportunists’ who are the most creative and effective ones - that make a difference. In this respect, politics matter more than the ‘new politics’ literature is willing to concede. The politics of defrosting (cf. Hering 2002; Palier 2000) the welfare state appears to be more contingent, surprising and disordered than is often presumed. In order to better understand the mechanisms of change, however, it is essential *to bring politics back in* in the study of welfare state reform. That implies the following for future *welfare state research*:

In line with Green-Pedersen/Haverland (2002, 49) and Vail (2003) we claim that the theoretical understanding of examples of path-breaking reforms and major retrenchment policies continues to be limited. Existing literature still seems to be poorly equipped to specifically account for far-reaching policy change, since it systematically underestimates the political capacities for initiating and pushing through policy change. In other words: Much more empirical research and theoretical conceptualisation is required in order to understand the complex and challenging world of welfare state reform. This encompasses detailed studies of the laws (i.e. to precisely reconstruct the measures taken by governments), detailed studies of the political processes and the context in which they take place, and detailed studies of strategic activities of persons and organizations engaged in politics. Over-theorisation as well as structuralist and institutionalist studies which solely focus on 'great politics' and large institutions seem to systematically obstruct one's view on *what really happens*. Pension politics is played out not in 'great politics', but in the sub-regimes of social politics. Moreover, 'bringing politics back in' does not imply conceptualising politics one-dimensionally as problem-solving activity, but as a political activity concerned with passions, struggles for power, framing and manipulating contexts and creative attempts to minimise electoral risks. 'Bringing politics back in' finally implies to (re-)conceptualise political science as "science of understanding real processes" (*"verstehende Wirklichkeits-wissenschaft";* cf. Weber 1951) in order to minimise theoretical speculation and to maximize empirical investigation.

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