

Organizational reform of statutory pension insurance in Germany

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PRELIMINARY REMARKS

Statutory pension insurance in Germany was radically reformed in 2005.¹ Not only the number of insurance institutions changed: administrative and decision-making structures also underwent a thorough process of reform.

This organizational reform had been long in the making and had been the subject of intensive debate. Discussion on reform had started already in the early 1990s,² largely because social change had made the organizational distinction between regionally organized pension insurance for blue-collar workers (*Arbeiter*) and centrally organized insurance for white-collar employees (*Angestellte*) obsolete.

During the last 15 years, until the breakthrough was finally achieved, all efforts at reform had failed because it proved impossible to establish a fair balance of the various players' interests.

This was partly because so many players were involved:

- 16 federal *Länder*;
- Federal Government;
- The Federal Audit Office;

¹ On organisational reform see Maximilian Gassner, Helmut König: "Eine neue Organisation für die gesetzliche Rentenversicherung", in *Mitteilungen der bayerischen Landesversicherungsanstalten*, 07/2003, page 308 ff.; Dieter Göbel: "Die Organisationsreform in der gesetzlichen Rentenversicherung", in *DAngVers*, 2005, page 61 ff.; Karl Rieker: "Organisationsreform in der gesetzlichen Rentenversicherung – Ein Überblick", in *Die Beiträge zur Sozial- und Arbeitslosenversicherung*, 2005, page 321 ff.; Günter Roggenkamp: "Organisationsreform in der gesetzlichen Rentenversicherung", in *Arbeit und Sozialpolitik*, 1999, page 44 ff.; Franz Ruland, Sylvia Dünn: "Die Organisationsreform in der gesetzlichen Rentenversicherung – Ein Überblick", in *NZS*, 2005, page 113 ff.; Franz Ruland: "Endlich: Die Organisationsreform ist in Kraft getreten", in *DRV*, 2005, page 2 ff.; Norbert Rzesnik: "Neuregelungen der Organisation in der gesetzlichen Rentenversicherung", in *ZfS*, 2001, page 193 ff.

² Cf. for example Georg Wannagat: "Zu einer zeitgemäßen organisatorischen Neuordnung der Rentenversicherung der Arbeiter und Angestellten" in *Die Sozialgerichtsbarkeit*, 1989, page 141 ff., 315 ff.

- 27 pension insurance institutions – including regional and federal institutions – and, not least, the social partners – employers' organizations and trade unions.

Moreover, the interests of the various players³ were extremely disparate right from the beginning.

- The prime concern of the *Länder* was to preserve and strengthen the pension insurance institutions located in their own regions. As employers and operators of rehabilitation clinics these are a major factor in regional employment and structural policy.
- The main concern of Federal Government was to reduce administrative and procedural costs. More extensive centralization was to help achieve this, amongst other things through the creation of a stronger parent organization at federal level.
- Of central importance to the pension insurance institutions were the questions of how insureds would be assigned and how their workload would develop.
- The wish to put in place more efficient systems of governance and coordination also required a rebalancing of the relationship between the centre and the regions – something which also raised numerous questions and has a certain number of constitutional implications.⁴

So the "conflict line" in this reform process ran essentially between central and regional interests. But because a reform act required the assent of both houses of parliament (*Bundestag* and *Bundesrat*), neither the Federal Government nor the *Länder* could drive their own ideal model through. Compromise was needed to get the act on to the statute book.

THE REVISED STRUCTURE OF STATUTORY PENSION INSURANCE IN GERMANY FOLLOWING THE ORGANIZATIONAL REFORM

Germany's system of retirement provision consists of three pillars: basic insurance, which is largely mandatory, and employer-sponsored and private supplementary provision, which is essentially voluntary. Amongst the mandatory systems, which include for example the Civil Service Pension Scheme (*Beamtenversorgung*) or the pension scheme for farmers, the Statutory Pension Scheme (*Gesetzliche Rentenversicherung*) is particularly important.

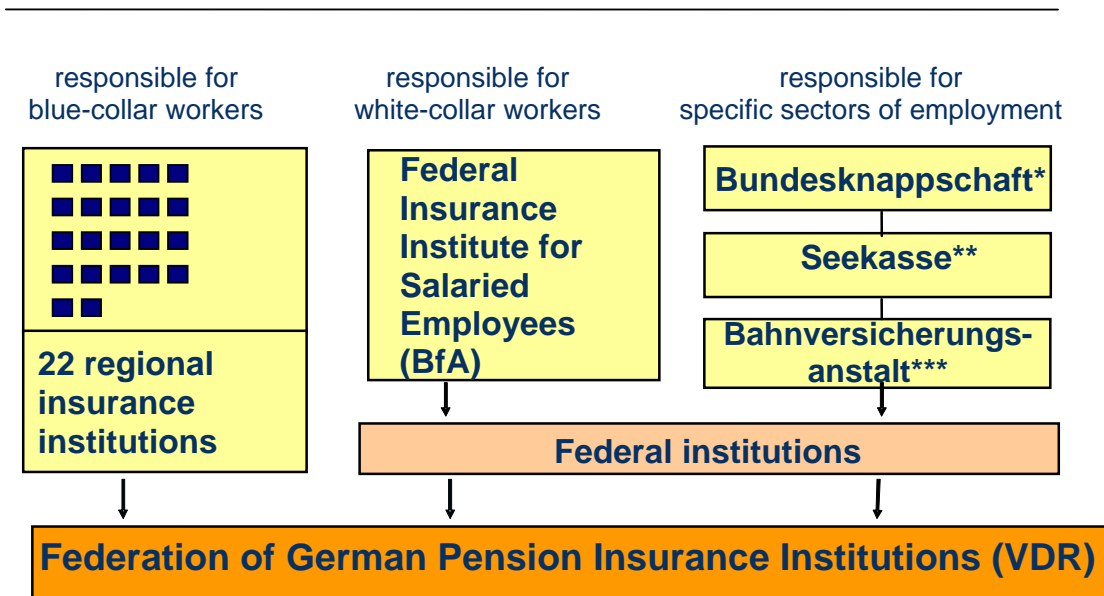
³ On the players' interests see Herbert Rische: "Die Organisationsreform der Rentenversicherung ... zukünftige Herausforderungen erfordern eine klare Positionierung der Rentenversicherung", in *Mitteilungen der bayerischen Landesversicherungsanstalten*, 2003, page 259 ff.; Wilfried Gleitze: "Die Organisationsreform der Rentenversicherung ... aus der Sicht der Landesversicherungsanstalten", in *Mitteilungen der bayerischen Landesversicherungsanstalten*, 2003, page 262 ff.; Georg Greve: "Die Organisationsreform der Rentenversicherung ... das Betriebsmodell", in *Mitteilungen der bayerischen Landesversicherungsanstalten*, 2003, page 241 ff.

⁴ Cf. (with additional references in each case) Peter Axer: "Verfassungsrechtliche Fragen einer Organisationsreform in der Rentenversicherung", in *DRV-Schriften*, 2000; Krebs: "Verfassungsrechtliche Zulässigkeit der Organisationsreform der Deutschen Rentenversicherung", in *DRV-Schriften*, Volume 14, 1999; critique by Friedrich E. Schnapp: "Organisationsreform der Rentenversicherung durch Hochzoning der Entscheidungskompetenzen?" in *Die Öffentliche Verwaltung*, 2003, page 965 ff.

With 52.5 million insured members and a budget of around EUR 256 000 million it is the biggest social security scheme in Germany.⁵

The structure of pension insurance traditionally reflected the difference between blue- and white-collar workers' pensions. Pension insurance for blue-collar workers was handled by 22 regional insurance institutions. White-collar employees were insured with the Federal Insurance Institute for Salaried Employees (*BfA*), a federal institution. There were also three special institutions covering specific sectors of employment. All 26 pension insurance institutions were legally independent and were voluntary members of the Federation of German Pensions Insurance Institutions (*VDR*). This umbrella body was organized as an association and was responsible, in addition to advising on policy, essentially for carrying out coordination and service activities on behalf of the institutions.

Former structure



* miners ** seamen *** railway workers

One effect of the organizational reform was to abolish the division of pension insurance into pension insurance for blue-collar workers and white-collar employees.⁶ As of 01.01.2005 new insureds are assigned to pension insurance institutions on the basis of statutory quotas.⁷

⁵ Cf. Verband Deutscher Rentenversicherungsträger, *Rentenversicherung in Zahlen*, 2005.

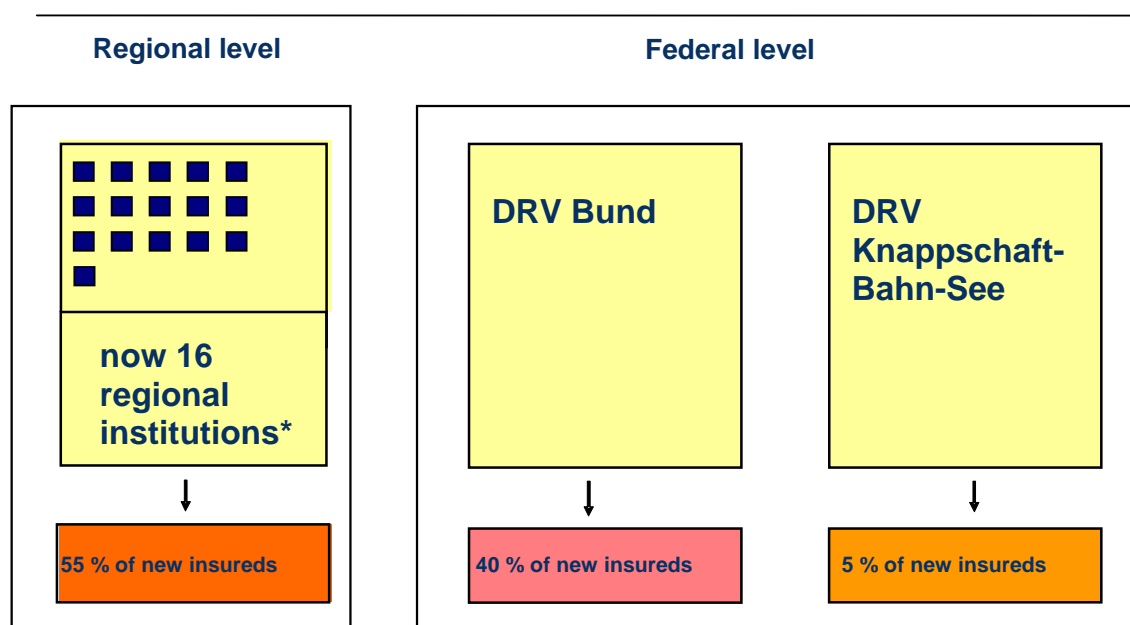
⁶ Günter Roggenkamp: "Arbeiter und Angestellte unter einem Dach", in *Gesundheits- und Sozialpolitik*, 2005, page 54 ff.

⁷ Gerald Friedrich, Diana Jokisch, Robert Schmitz: "Die Zuordnung der Versicherten nach dem Gesetz zur Organisationsreform in der gesetzlichen Rentenversicherung (RVOrgG)", in *Deutsche*

In a second stage, from 01.10.2005, five federal-level insurance institutions were merged into two. The three special institutions merged to form the German Pension Insurance Institution for Miners, Railway Workers and Seamen (*Deutsche Rentenversicherung Knappschaft-Bahn-See*). The Federal Insurance Institute for Salaried Employees (*BfA*) and the Federation of German Pensions Insurance Institutions (*VDR*) amalgamated to form the German Pension Insurance Federal Institution (*DRV Bund*). Mergers were carried out at regional level too.

The total number of institutions was cut from 27 to 18. Further amalgamations are planned at regional level for 2007 and 2008.

New structure



* Further amalgamations planned

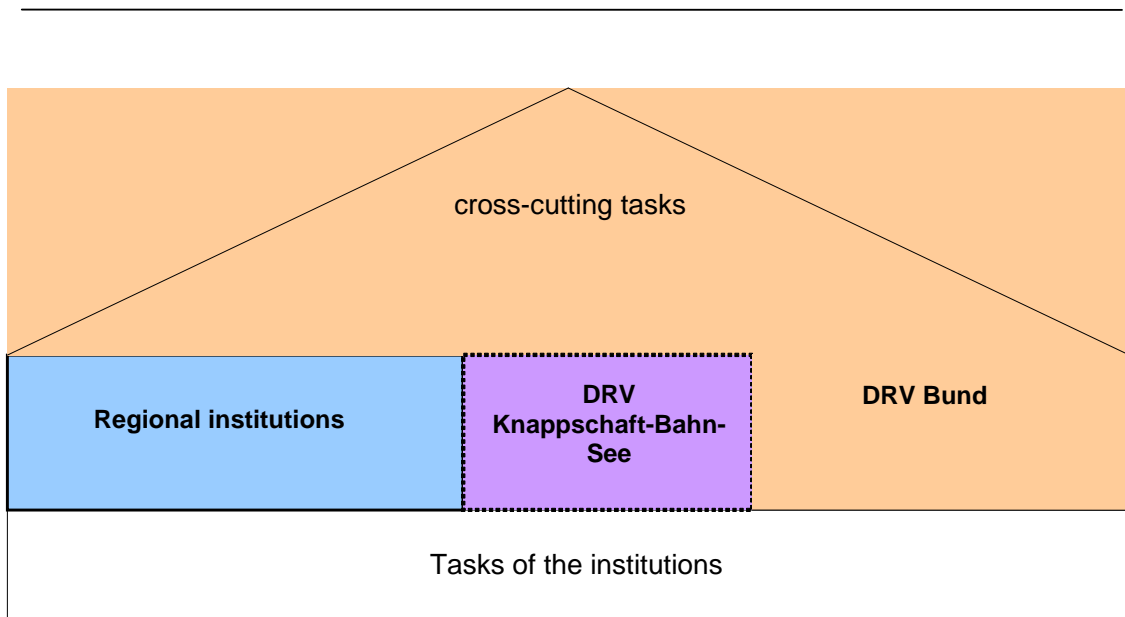
As of 01.10.2005 the names of all the pension insurance institutions also include the wording "*Deutsche Rentenversicherung*" (*DRV*, or German pension insurance). This reflects the intention that in future the organization should act more emphatically as a single, uniform body. This is also the aim of the new common "logo", likewise launched on 01.10.2005.

Rentenversicherung, 2005, page 33 ff.; Birgit Barthelmäs: "Die neue Versichertenverteilung", in *Mitteilungen der bayerischen Landesversicherungsanstalten*, 2005, page 15 ff.

THE GERMAN PENSION INSURANCE FEDERAL INSTITUTION (*DRV BUND*) A SINGLE ORGANIZATION WITH A DUAL REMIT

The legislator has given the *DRV Bund*⁸ a twofold remit. On the one hand it is the insurance provider for its own insureds, and on the other hand it has responsibility for cross-cutting tasks of relevance to all the institutions.

Tasks of DRV



Both in qualitative and quantitative terms, the powers of governance of *DRV Bund* have been substantially broadened compared with those of the *VDR*.

The institutions met, within the bodies of the umbrella federation, to agree on the interpretation and application of pensions law. Under the bylaws of the *VDR* they had to abide by whatever was agreed jointly. In organizational matters, e.g. concerning information technology or public relations, action was coordinated where necessary. But the Federation could not take binding decisions on organizational matters.

By contrast, the governing powers of *DRV Bund* also encompass organizational matters at central level. The law sets out a detailed list⁹ of the basic and cross-cutting tasks for which *DRV Bund* is responsible. In addition to ruling on fundamental specialist and legal questions, it must for example:

⁸ Wolfgang Binne, Sylvia Dünn: "Die Deutsche Rentenversicherung Bund – Strukturen, Aufgaben und Kompetenzen", in *Deutsche Rentenversicherung*, 2005, page 50 ff.

⁹ §138 (1), German Social Code, Book VI (SGB VI).

- represent the pensions insurance sector as a whole;
- handle public relations and statistics;
- issue framework directives on benchmarking;
- determine the principles whereby the system is structured and operates, and
- co-ordinate data processing or the planning of rehabilitation measures.

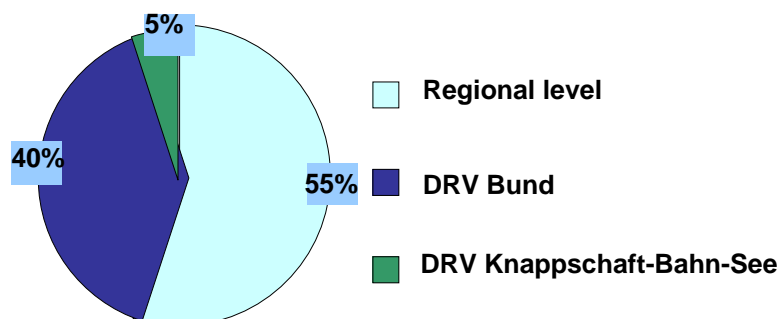
In qualitative terms too its powers have been broadened. *DRV Bund* can now take decisions on the aforementioned basic and cross-cutting tasks and those decisions are binding on all the pension insurance institutions with the force of law. Such decisions are also binding on the authorities which supervise the institutions. If an institution does not act in accordance with a decision, the supervisory authority must contest this as unlawful conduct.

The improvement of governance and coordination is to be seen in the context of the purpose of the reform, which is to reduce administrative and procedural costs. This is the reform's second essential objective, along with the introduction of a single concept of "the insured". The institutional mergers mentioned earlier will also help to reduce costs.

Objectives of the Organizational reform

- Single concept of the insured

Abolition of the organizational distinction between blue- and white-collar workers



- Reduction of administrative and procedural costs

- Improvements to governance and co-ordination

INFLUENCE OF THE PENSION INSURANCE INSTITUTIONS ON THE REFORM PROCESS

The new organizational model is the result of a process of negotiation between two bodies of interests – centralized and decentralized (regional). The tension between Federal Government and the *Länder* was reflected in pensions insurance – with the federal institutions on the one hand and regional institutions on the other. Harmonization within the pensions insurance system was thus recommended for the whole reform process.

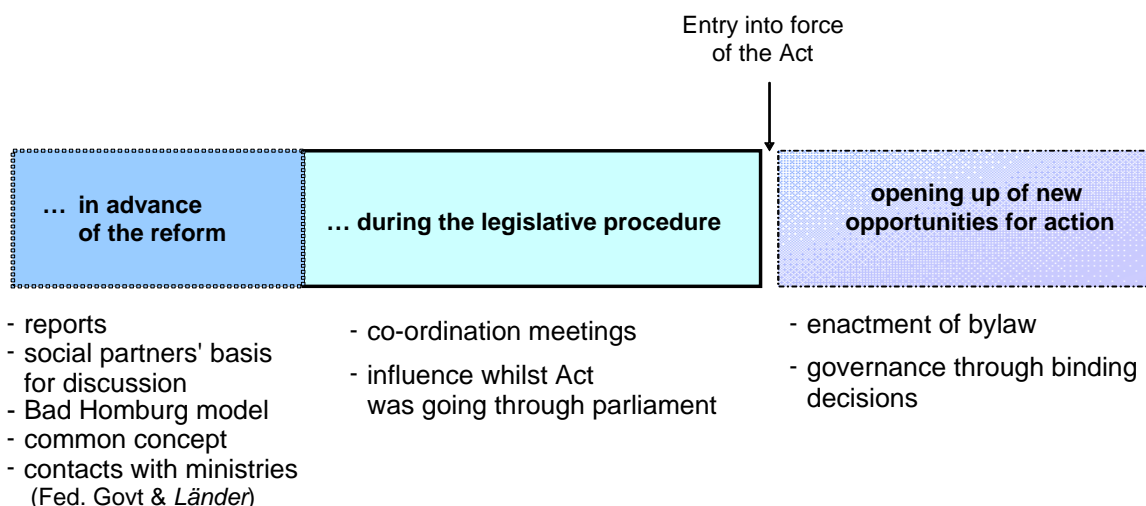
Looking at how the pension insurance institutions put their stamp on the reform process and influenced it, three phases can be identified.

First of all the pension insurance institutions devised models in advance of the reform, contributing significantly to the achievement of basic consensus on the reform parameters.

Then, during the legislative procedure they took part in numerous coordination meetings, helping to draft the rules and actively providing input as the reform went through parliament.

But the entry into force of the Reform Act did not simply mark the end of one process. It also launched a new process – a process of governance which the pension insurance institutions themselves will carry through.

Influence on the reform process



Influence of the pension insurance institutions in advance of the reform

As indicated at the start, the range of interests existing in advance of the reform was extremely varied and complex and for a long time prevented a solution from being found.

Only when basic consensus had been achieved both inside and outside the pension insurance institutions did it become possible to put the planned reform into practice.

Basically two things had to be determined for the relationship between federal and regional levels: one, the question of how insureds were to be assigned and, two, the scope of decision-making powers. Many stages would be gone through before these two questions were resolved.

In 1993 the Federation of German Pensions Insurance Institutions (*VDR*) asked a firm of consultants to draw up a report on organizational reform. This report¹⁰ recommended that a uniform system of pensions insurance be set up for all insureds and that the number of pension insurance institutions be reduced. It also suggested the creation of an umbrella institution with more extensive decision-making powers.

Two years later the Bavarian State Government, in a totally different approach to the matter, introduced a bill before parliament which sought to regionalize pensions insurance¹¹. Under this, the Federal Insurance Institute for Salaried Employees (*BfA*) – by far the largest institution – would, following a transitional period, be responsible only for insureds who had a foreign connection (employment abroad, foreign dependants).

When the proposal failed due to opposition from Federal Government¹² the Federal Audit Office entered the debate in 1998. In a report to the *Bundestag's* Budget Committee¹³ it took the view that a range of organizational measures would enable the administrative costs of pensions insurance to be cut by 10 per cent. It favoured reducing the number of pension insurance institutions from 27 to 7. At federal level there should be just one institution.

At the same time the self-governing administrations of the pension insurance institutions were also taking a close look at the issue of organizational reform. In 1999, one year after the Federal Audit Office's report, the social partners put forward a common "basis for discussion".¹⁴ This already contained a balance between decentralized and centralized positions. It was thus a good starting point for further debate and also for the organizational structure which would be formalized in the Reform Act.

The basis for discussion postulated a stronger uniform federal body with the power to take binding decisions. It contained, for the first time, a list of the strategic duties and cross-cutting tasks to be performed at federal level. The regional institutions were to have more of an influence on decisions concerning cross-cutting issues.

¹⁰ Roland Berger & Partner: "Organisationsgutachten zur gesetzlichen Rentenversicherung", Frankfurt am Main, 1994.

¹¹ Entwurf eines Gesetzes zur Änderung der Zuständigkeiten in der gesetzlichen Rentenversicherung (Zuständigkeits-Änderungsgesetz – ZÄG) vom 04.04.1996, Bundesrats-Drucksache 262/96.

¹² The Federal Government did not consider the bill to be an adequate basis for organizational reform. The *Bundestag* did not debate it during the 13th parliamentary term. Reintroduced during the 14th parliamentary term (*Bundestags-Drucksache* 911/98), it was again not debated.

¹³ Bericht vom 30.09.1998, Drucksache des Rechnungsprüfungsausschusses des Haushaltsausschusses 13/3956; Aktenzeichen: IX 1-1998-0018.

¹⁴ Cf., Erich Standfest: *Deutsche Rentenversicherung*, 1999, page 335 ff.

In December 2002 the relevant federal ministry formed a working group made up of state secretaries representing Federal Government and the *Länder*. On the basis of this working group's initial deliberations the Ministry asked the pension insurance institutions to draw up a common proposal for an organizational plan. As early as February 2003, just three months later, the *VDR* Board approved a model along these lines and laid it before the Ministry. This drew substantially on the basis for discussion, wanting a uniform umbrella organization and a 50-50 split of insureds between federal and regional level.

The working group of state secretaries subsequently worked closely with the pension insurance institutions to devise a "Common Concept", approved by the Federal Chancellor and heads of government of the *Länder* in June 2003.¹⁵ Points which remained contentious right to the end were the structure of the umbrella organization and the assignment of insureds. On the latter issue the *Länder* ultimately prevailed, obtaining a quota of 55 per cent compared with 45 per cent for the federal level. On the question of the new federal institution's organizational structure the model favoured by the Federal Ministry was accepted – this envisaged the creation of a federal institution which was at the same time a parent federation. The Common Concept also listed basic and cross-cutting tasks for which *DRV Bund* would be responsible in future. This list established the demarcation line between federal and regional powers and thus forms the core of the reform. During the legislative procedure it remained largely sacrosanct, with only minor editorial adjustments being made.

This Common Concept marked the point at which Federal Government and the *Länder*, after almost a decade, finally reached agreement on the principles for organizational reform of the pension insurance system.

Influence during the legislative procedure

Once the "Gordian knot" had been cut and the core rules established, the legislative procedure was completed very quickly. The first draft of a bill was unveiled in December 2003. The Act itself was promulgated in December 2004.¹⁶

The pension insurance institutions were also closely involved in the legislative procedure. The Ministry's drafts were discussed at numerous meetings with representatives of the pension insurance institutions. Observations by the pension insurance institutions were discussed and to a large extent acted on. In some cases suggested forms of wording were also adopted after being agreed within the pension insurance institutions – not always an easy matter. The rules governing the structure of the self-governing bodies of *DRV Bund*, for example, are based on a proposal by the pension insurance institutions.

The first substantial amendment to the bill came not in the coordination meetings, but when the bill was making its way through parliament. The bill drafted by the Federal Cabinet in May 2004 required that the budgets of all pension insurance institutions should be subject to approval. The *Bundesrat*, in its opinion on the bill, had criticized this provision. The pension insurance institutions too, in a common position, pointed out that a provision of this

¹⁵ "Gemeinsames Konzept für die Organisationsreform in der Gesetzlichen Rentenversicherung", Nachrichten der Landesversicherungsanstalt Hessen, 2003, page 73 ff.

¹⁶ Gesetz zur Organisationsreform in der gesetzlichen Rentenversicherung (RVOrgG) vom 09.12.2004, *BGBI.* I 2004, page 3242 ff.

kind would seriously interfere with the institutions' powers of self-government. Following a meeting of the relevant *Bundestag* committee this requirement of budget approval was removed from the Common Concept. At the same time, however, the target of a 10 per cent saving on spending for the year 2004 was formalized in the Act.

All in all the coordination procedure was undoubtedly a costly exercise. But it led to the Act being passed unanimously by both *Bundestag* and *Bundesrat*. This is highly significant for the Statutory Pension Scheme which, being a system of long-term provision, has a particular need for confidence and continuity.

Given the background outlined above, it is not surprising that the wide range of interests existing around the reform plan from the very beginning should be clearly reflected in the Act itself. Many of the provisions on the new structures and decision-making procedures are compensatory in nature. They are to be seen as the result of a bargaining process in which very different, justified concerns were placed on the scales and weighed against each other. Without compromises the reform would not have been possible.

Governance and coordination through binding decisions

The third phase of the reform began once the Reform Act had come into effect.

The Statutory Pension Scheme in Germany is indirectly state-administered. Intentions are agreed and decisions are taken – in the case of all 18 institutions – in democratically legitimized self-governing bodies, the General Meeting and the Board. These are in principle joint bodies, with an equal number of members representing insureds and employers. These members work on a voluntary basis. Ongoing administrative tasks are handled by a fulltime, paid Executive Management Body, elected by the general meeting.

German administration has a long tradition of self-government. It is grounded in the principle of democratic participation by the parties concerned and is designed to strengthen the personal responsibility of the citizen. Involvement of the social players in the structures of opinion-forming and decision-making leads to a valuable interlinking of state and society.

Organizational reform has substantially strengthened self-government in the Statutory Pension Scheme.

Firstly, many questions were deliberately left open during the legislative procedure. "The details" were to be worked out by the bodies of *DRV Bund* themselves – in their bylaws, for example. This applies to the structure of assigning insureds or to the control of financial resources and management.

More importantly, though, the reform has launched a process of governance which the pension insurance institutions will carry through themselves. The ability to take binding decisions has opened up new opportunities for action by the institutions. The Act only creates the framework for this action – specific measures will be determined by the institutions themselves. Examples include the development of targeted benchmarking or the agreeing of structural adjustments in the area of rehabilitation.

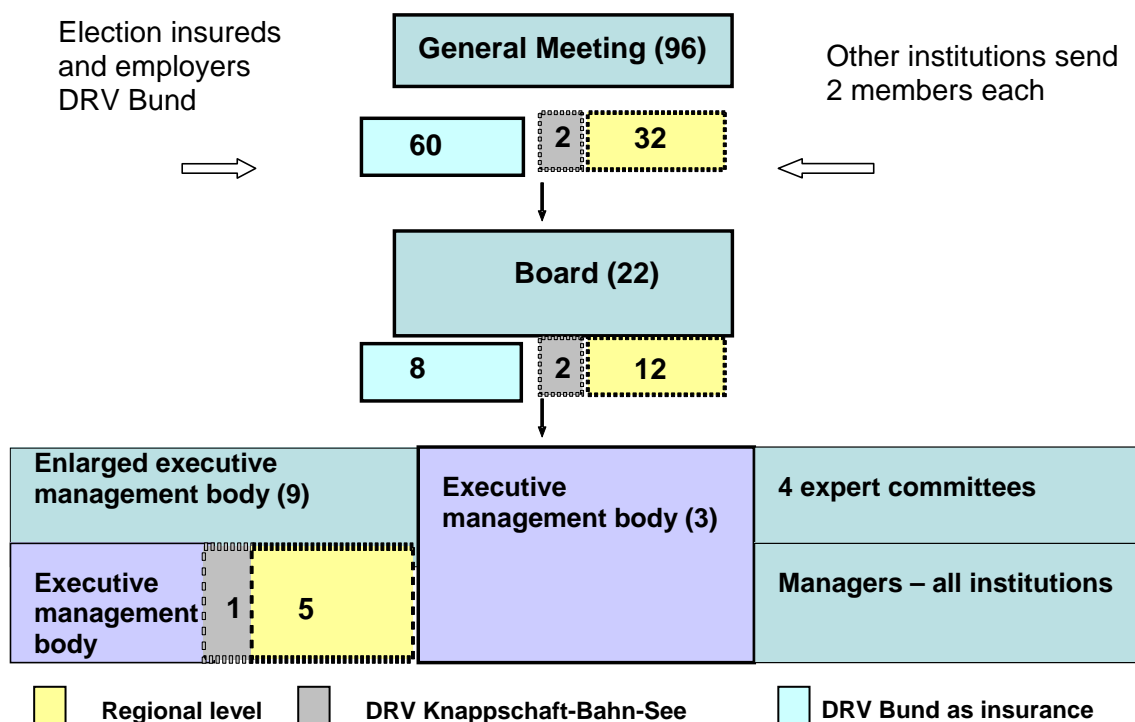
ORGANIZATIONAL REFORM BETWEEN CENTRALIZATION AND DECENTRALIZATION

It would be wrong to see this reform as a process of centralization which, whilst preserving the regional institutions' status as autonomous bodies, nevertheless restricts their activity to operational matters and prevents them from having any influence on basic questions of strategy or cross-cutting issues. Because the fact of giving powers of governance to the federal institution also broadens the ability of the other pension insurance institutions to make their voice heard. All in all the decision-making structures are designed in such a way that substantively it is not so much a question of regional bodies being controlled by a federal institution, but rather that the organizational system of German pensions insurance (*Deutsche Rentenversicherung*) is self-managed jointly by all the institutions together. Thus the more strongly centralized organizational model also – as a kind of counterbalance – includes important elements of decentralization¹⁷.

The other pension insurance institutions are able, essentially, to influence the decisions of *DRV Bund* thanks to two regional, decentralized features of the system's organization:

- composition of the decision-making bodies, and
- decision-making arrangements.

Structures of the bodies of the *DRV Bund*



¹⁷ On regionalization generally see Pitschas: "Föderalismus und Regionalisierung in der Sozialversicherung", in *Die Angestelltenversicherung*, 1995, page 418 ff.; Vaitl: "Föderative Struktur einer Sozialversicherung in Deutschland", in *Mitteilungen der Landesversicherungsanstalt Oberfranken und Mittelfranken*, 1990, page 602 ff.

The self-governing bodies of *DRV Bund* which are responsible for binding decisions include representatives of all the pension insurance institutions. Where decisions are to be taken which affect only *DRV Bund* and not the other institutions, the representatives of those other institutions take no part in the proceedings.

Representatives of all the institutions are likewise part of bodies which do the technical preparation work on decisions to be taken by the self-governing bodies. This is the case, for example, with the specialist committees on which managers from all the institutions sit. It is their job, on specialist and legal matters, to ensure that the pension insurance institutions voice the same intentions and act in the same way.

Moreover, the requirement of a two-thirds majority and a weighting of votes to reflect the numbers of insureds guarantees that on cross-cutting issues the federal body cannot outvote the regional institutions – and *vice versa*.

Whilst the terms "governance" or "control" may suggest otherwise, a binding decision will only be taken in any given case if consensus has been reached between federal and regional institutions by their specialist representatives and self-governing bodies.

CONCLUDING REMARKS

The new organizational model of pension insurance is complex – and not just at first sight. This is very much the result of the legislator's basic decision in favour of merging the functions of insurance institution and umbrella organization into a single entity. But it must be borne in mind that pension insurance was not invented in 2004. This was not a "green field" reform. The model had to start from the point which the Statutory Pension Scheme had reached after more than 100 years of existence. And it had to be politically practicable – a compromise acceptable to all those involved.

And though the new structure is far from simple, it is by no means bad. The Reform Act and the bylaws provide an organizational framework within which interests can, in practice, be balanced. First results indicate that the new structure obliges the federal and regional institutions, more than in the past, to work not only alongside each other but above all with each other.