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

In 1972, the federal government submitted a bill on social law but ultimately deferred it. A year later, Walter Arendt, Federal Minister of Labor and Social Affairs, put it back on the political agenda. Here, he explains the importance of a standardized social law in securing a unified legal foundation for social rights that had always been covered by different branches of the legal system.

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**Press Release (excerpt) by Walter Arendt, German Federal Minister for Work and Social Order**

Social legislation is presently splintered into numerous individual laws. The citizens for whom the laws are made face a jungle in which very few can find their way. We want to change that. By creating a social code, we aim to consolidate, coordinate, and simplify the social legislation based on uniform principles. The social legislation is to be made transparent for the citizens. At the same time, their understanding of the law and their trust in the social welfare state based on the rule of law is to be promoted, legal certainty guaranteed, and the administrative and judicial application of law facilitated.

[ . . . ] The social code is designed to make the social welfare state clause in the Basic Law more concrete by means of social rights, that is, a social charter for the citizens. These rights demonstrate the main ideas of our progressive social policies. They are binding for administration and jurisprudence and must therefore be observed in applications of the law, especially as regards interpretations, closing up loopholes, and exercising discretion.

Detailed information for citizens in the form of introductory instructions constitutes a main focus of the bill. It is assumed that informing and advising citizens of their rights and obligations are among the essential social responsibilities of our time. Anyone seeking advice or information in social matters in the future is entitled to be served thoroughly and quickly by the competent office in the social administration. No one should fail in his or her request because several different offices might be responsible. For this reason, in addition to obligatory consultation services by the competent service provider, there are also provisions for certain local offices, independent of their specific areas of competence, to provide information on all social matters. The law itself is also intended to contribute to better informing the citizen by offering an authoritative summary of all social benefits and the respective service providers.

Another focus of the bill is to strengthen the legal position of individuals through common basic regulations for all areas of social benefits. These regulations are based on the idea that,

according to today's understanding of social benefits, they are no longer provided from the "top down," but are a self-evident responsibility of the social welfare state. Consequently, it follows that, for example:

- A legal right to social benefits exists in cases of doubt.
  - Advances and provisional benefits are to be paid in appropriate cases.
  - Interest must be paid on overdue financial benefits under certain circumstances, and upon the death of the entitled party such benefits are transferred to the legal successor.
  - Social benefits cannot be totally removed from legal proceedings; instead, they can be transferred and attached under preconditions that are reasonable in terms of social policy.
- Furthermore, the mutual trust between citizens and the social administration shall be improved, for example, by regulations on legal hearings and confidentiality of the private sphere, and by a precise description of the participatory duties of the individual. Integration of the disabled into the community shall be intensified through additional joint regulations.

Source: Press Release from April 4, 1973; reprinted in Arnold Harttung et al., eds., *Willy Brandt, Zum sozialen Rechtsstaat. Reden und Dokumente* [*Willy Brandt. On the Social Constitutional State. Speeches and Documents*]. Berlin, 1983, pp. 353-54.

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