

## 1. What is the right to social security?

- human right in a legal sense – enshrined in and defined by a range of international instruments, i.a.: Art. 23 Universal Declaration of Human Rights (1948), Art. 9 International Covenant for Economic, Social and Cultural Rights (1966), several ILO Conventions like Convention 102 on Social Security (Minimum Standards), European Code of Social Security (1964), Art. 12-14 European Social Charter (Revised) (1996)
- material content highly controversial (the right as general principle seems to be undisputed)
- General Comment No. 19 (The Right to Social Security), adopted by the UN Committee on Economic, Social and Cultural Rights on 23 November 2007 gives guidance in defining and implementing the right:
  - the right to access and maintain **benefits without discrimination** in order to secure **protection**, i.a., from
    - (a) **lack of work-related income** caused by sickness, unemployment, old age etc.
    - (b) **unaffordable access to health care**
    - (c) **insufficient family support**, particularly for children and adult dependents
  - states parties to the Covenant must show that they have taken the necessary step “within their **maximum available resources**”
- these regulations contain grey legal concepts: “lack”, “unaffordable”, “insufficient” and “maximum available resources”, therefore need for clarifications: what is a **threat** to the right to social security and what is a **violation** of this right?
- “Social security is a contested terrain.” (Guy Ryder, General Secretary, International Trade Union Confederation [ITUC]), 2006

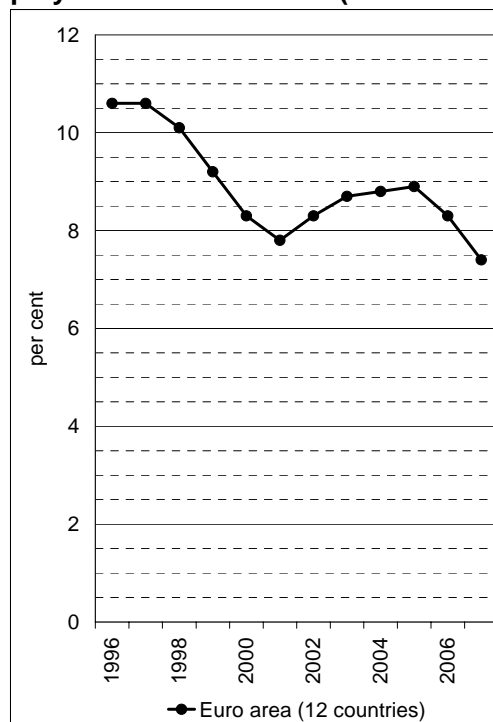
## 2. The social and economic environment

- high, but declining **unemployment**: challenge to systems for unemployment benefits  
9,3 % of all persons aged 18-59 are living in households where no one works (EU average, 2007) (though this share clearly went down since 1996) (see figure 1)
- **restructuring of the labour market** (post fordist transition): replacement of standard employment relationships through
  - \* temporary employment, the number of temporarily employed workers tripled in Germany over the last ten years (2007: 713.000 or 2,4 % of the workforce)
  - \* marginal employment, since 2002 the number of “mini-jobs” has doubled in Germany ( “mini-job”: maximum 400 euros per month)

result: expanding low wage labour, e.g. Germany: 22 % of all employees (6,5 million) are found in low wage labour (less than 75 % of the national median wage) which was an increase from 1995 to 2006 by 43 %; about 75 % of all employees in low wage labour completed vocational training or even university; high share of women: 60 % of all low wage employees are female but only 35 % of all full time employees are women

working poor: e.g. Germany: the number of full-time employees having to supplement their income with state benefits rose by one-third to 1,3 million from September 2005 to August 2007 despite the economic upturn – but: not all low wage

Figure 1:  
Unemployment rate Euro area (12 countries)



Source: Eurostat, © Werkstatt Ökonomie e.V.

employees are working poor (i.e. poor in spite of gainful employment)

- high but not increasing **poverty** (EU average) – 16 % of all households (EU average) below the risk-of poverty threshold (after social transfers) (model of relative poverty)

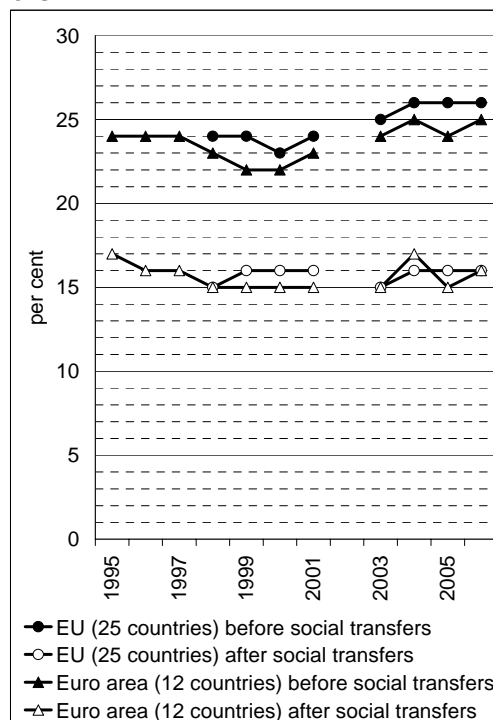
significant differences between countries, e.g. “new” EU member states: growing poverty since 2003 in the Czech Republic, Hungary, Latvia, Romania and Slovenia, poverty reduction in Estonia and Slovakia and no clear trend in Bulgaria and Lithuania

significant differences depending on the model used (different poverty thresholds) and significant differences inside a country (regional disparities), see Germany as example (figures 3 and 4)

the risk-of-poverty rate would be significantly higher without social transfers, e.g. Germany (figure 5)

Figure 2:

**At-risk-of-poverty rate before and after social transfers<sup>a)</sup>**

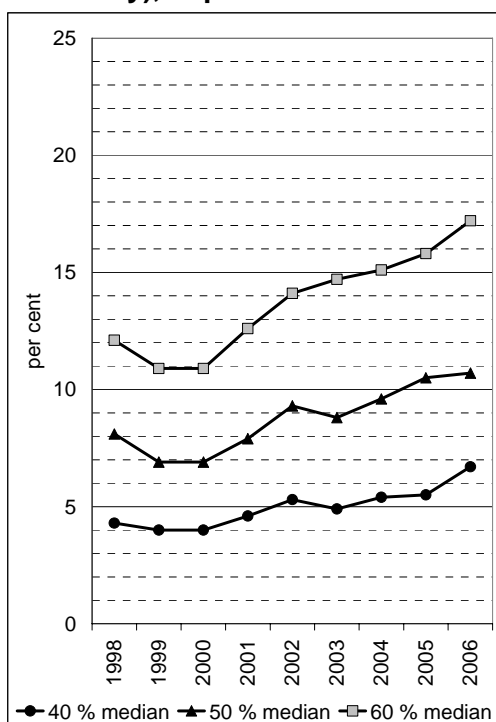


a) see footnote to figure 3

Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 3

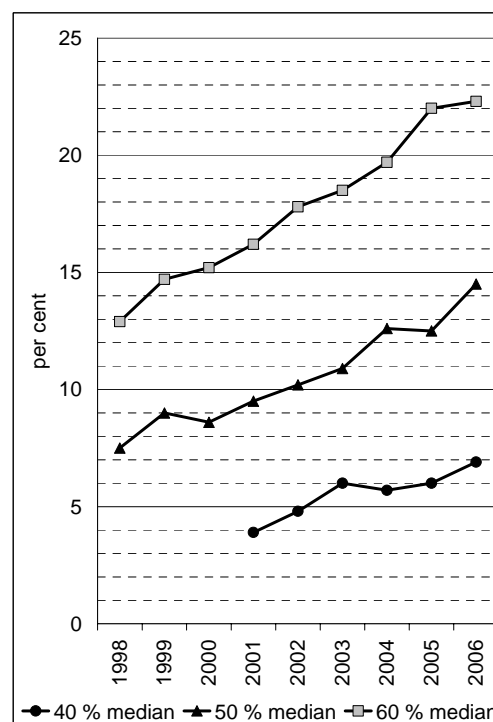
**At-risk-of-poverty rates<sup>b)</sup> after social transfers: Germany, old federal states (West Germany), in per cent**



Source: SOEP, © Werkstatt Ökonomie e.V.

Figure 4

**At-risk-of-poverty rates<sup>b)</sup> after social transfers: Germany, new federal states (East Germany), in per cent**



Source: SOEP, © Werkstatt Ökonomie e.V.

<sup>b)</sup> Share of persons with an equivalised disposable income below the risk-of-poverty threshold (60 % of the national median equivalised disposable income) and below 50 % and 40 % of the resp. median; new OECD scale

- high **child poverty**, the risk-of-poverty rate lays in many EU countries above the general risk-of-poverty rate (figure 6), 19 million children lived under the poverty threshold in the 27 EU countries in 2005 (10 million less than in 1995), no statement on trends in child poverty possible due to the lack of internationally comparable income trend data
- global **tax competition**
- **demographic changes** (aging societies)
- changing patterns of family life (increasing employment rate of women) lead to changes regarding **home care** (family care)

### 3. Threats to and violations of the right to social security

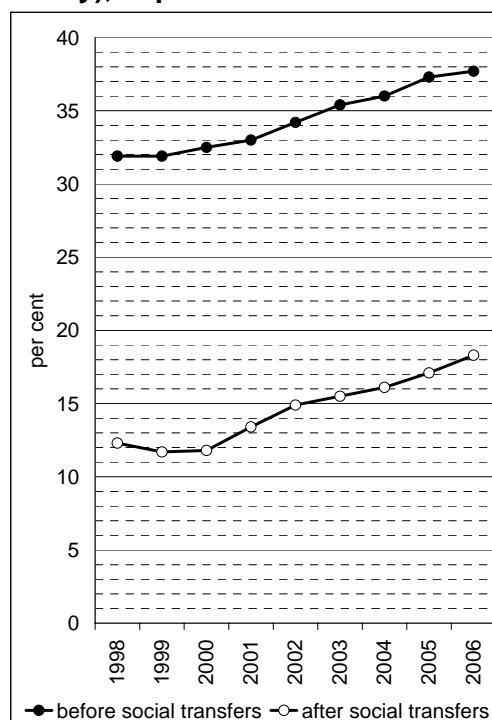
#### 3.1 General remarks

The social security systems vary widely between EU member states. They reflect the different social and political developments of these countries during the last 150 years. Nevertheless there are significant similarities – even between the “old” and the “new” EU member states:

- high level of social security systems in most countries – compared with many other parts of the world

Figure 5

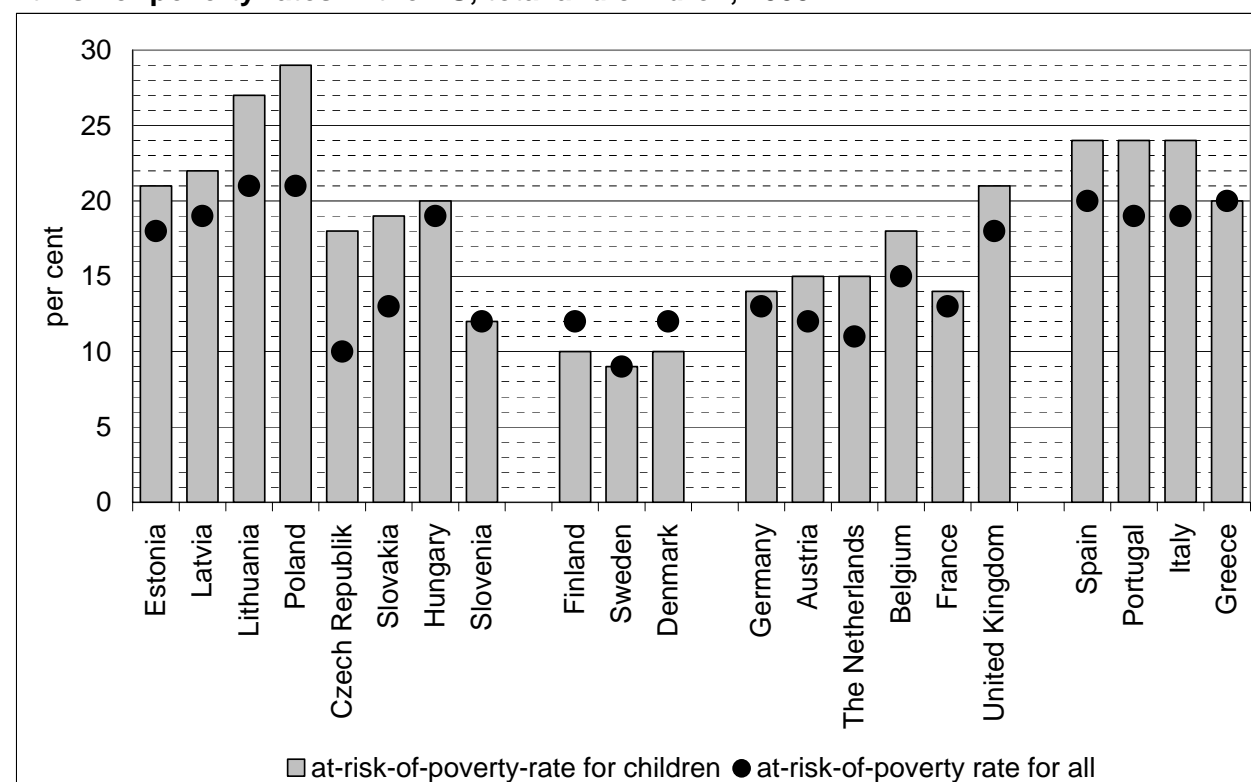
**At-risk-of-poverty rates before and after social transfers: Germany (for the whole of Germany), in percent**



Source: SOEP, © Werkstatt Ökonomie e.V.

Figure 6:

**At-risk-of-poverty rates in the EU, total and children, 2005**



Source: European Commission © Werkstatt Ökonomie e.V.

- increasing spread of the perception that public security systems would be at least partially inefficient
- increasing economic threat to public security systems due to the above mentioned challenges and due to decreasing tax revenues as a result of tax reforms
- tendency to liberalize and to privatize at least certain elements of public security systems because of the convictions
  - (a) that the state would no longer be able to provide all social benefits and
  - (b) that it would be on one's own responsibility to take care of social protection measures
- industrial associations and private corporations succeeded in convincing governments, the media and the public that the "welfare state" should be replaced by a "competition state" – "lean" enough to survive in the global competition

In addition, in the "new" EU member states the unavoidable transformation of former social security systems after the 1990 collapse of the communist systems led and leads to widespread insecurity – both in the perception of most people and regarding (objective) structures.

### 3.2 Health care

- General Comment No. 19: "States parties have an obligation to guarantee that health systems are established to provide adequate access to health services for all."
- limited access to health care for **particular groups** in many EU countries (e.g. migrants, asylum seekers, minorities)
  - Romania*: poor families, particularly in rural areas and among the Roma people, have limited access to health services, they cannot afford the co-payments required for the provision of some services and the purchasing of medicines, as well as extra payment for doctors and auxiliary personnel; for 40 % of people in rural areas, transportation and its cost represent a further obstacle to access to medical services
  - Germany*: the provision of medical care for undocumented migrants (without a residence title or a residence permit) is insufficient; the same is true with regard to *Belgium*: the legal framework establishes that 'urgent medical assistance' can include both preventive and curative attention, but the term 'urgent' generates confusion and "allows for an arbitrary interpretation by doctors and public social assistance centres" (as stated by the organization Doctors Without Borders Belgium)
- **curbs on expenditure** ("reforms" to cut costs") led to increasing strain in hospitals; some countries saw a drastic cutback in health care institutions
  - Hungary*: the social-liberal government closed hospitals under the slogan of 'reforms'
  - Romania*: the number of hospital beds dropped from 207.000 in 1994 to 142.500 in 2004
- **erosion of solidarity systems** (systems in accordance with the principle of solidarity, of a caring society) – might it be through privatization or through other structural reforms
  - e.g. *Germany*: 2007 reform of statutory health insurance (GKV) made health insurances obligatory but broke with the previous system and shifted risks onto insured persons: in future, the financing of the system will no longer be shared equally by the employers and the workforce because the new "health insurance fund" can require insured persons to pay a "top-up" contribution, amounting to as much as one percent of their income (without employer's contribution) (self-employed and affluent don't contribute to the fund); in addition, some benefits are being paid from tax revenue – currently accounting for spending of around 2.5 billion Euro (an increase to 14 billion Euro is intended by the government), these tax based benefits could be subject to cutbacks in case the tax revenue goes down; positive aspects of the reform: everybody is covered by the health insurance system and private health insurance providers have to offer a basic tariff whose services and benefits, in terms of their type, scope and amount, are comparable with those provided by the statutory health insurance schemes
- the **liberalization of the pharmaceutical market** and decrease in domestic production led in some countries like Romania to a steep rise in prices for pharmaceutical products, further limiting the poor people's access even to vital, obligatory treatments

In addition the "new" EU member states face problems inherited from the old health care system under the communist regime, i.a. the lack of primary medical assistance in many rural localities and the shortage of medical facilities and equipment; in general the public health system is characterised by the growing inability to provide free or subsidized medicines for those in need

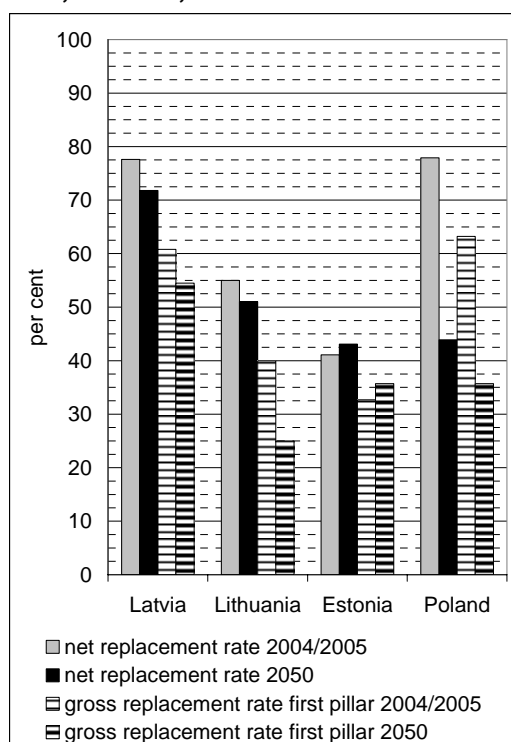
### 3.3 Old age

- three pillars of pension systems: first pillar: statutory pension schemes, regardless of whether they are funded or pay-as-you-go financed ("pay-as-you-go" system, abbreviated PAYG: active workers pay for the pensions of the former workers), second pillar: occupational schemes, i.e. pension schemes linked to the employment status, third pillar: individual retirement provision through insurance and retirement savings
- **crisis of pay-as-you-go systems** due to high unemployment, the extension of low wage labour and demographic changes
- **privatization** of pension systems in most EU member states, this implies abandoning the PAYG system (first pillar) based on the principle of intergenerational solidarity; the present financial crises i.a. shows the problematic of private pension funds regarding their investment in Hedge Fonds and Private Equity Funds  
 "Private insurance fails to deal adequately with social risks: first, not all risks are insurable in full or in part; and, second, more pragmatically, the poorer sections are unable to pay for a full level of insured coverage."  
*Michael Chichon, Social security for all: Investing in global and economic development*
- **raising of retirement age** in some countries, e.g. in *Germany* from 65 to 67 years in order to limit the pension contributions being made, especially by companies, in effect, the raising of retirement age means a pension cut for anyone retiring from working life before 67
- tendency, that people should **contribute significantly longer** to pension schemes
- in some countries **gender gap** regarding pension benefits, e.g. *Bulgaria*: no compensation for the gender wage gap in the new private pension scheme (second pillar of the pension system), therefore lower pension benefits gap; in addition, the new second pillar discriminates women because the level of their pension benefits is lower than it is the case for men due to their longer life expectancy
- in many EU countries **decline in replacement rates** from 2005 to 2050 due to
  - a) privatization (*Poland, Sweden, Latvia*)
  - b) decline of public funds (*France, Czech Republic*), see figures 7 – 10 on page 6
 (Replacement rates show the level of pensions as a percentage of previous individual earnings at the moment of take-up of pensions. Public pension schemes and [where appropriate] private pension arrangements are included, as well as the impact of taxes, social contributions [and non pension benefits that are generally available to pensioners].)  
 for countries which have introduced **life expectancy adjustment factors** in their pension systems (like *Germany, Austria, France, Italy, Poland and Sweden*), this can translate into a decrease of replacement rates, intention: to create the right incentives for extending working lives  
 in a number of EU member states, the development of privately managed pension provision is projected to play a role in compensating future decrease in replacement rates  
 for some Member States, the evolution of replacement rates appears to be very significantly less favourable for lower wages than for average wages

### 3.4 Unemployment

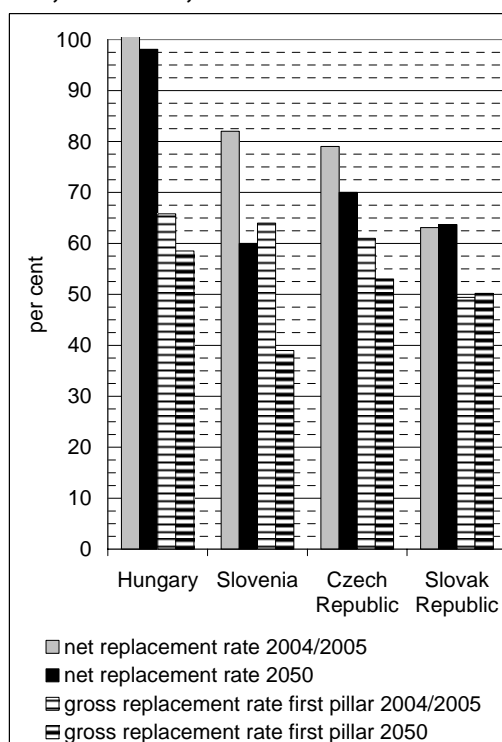
- General Comment No. 19: "In addition to promoting full, productive and freely chosen employment, States parties must endeavor to provide benefits to cover the loss, or lack, of earnings due to the inability to obtain or maintain suitable employment."
- due to the high unemployment in many countries different (!) "reforms" to **cut unemployment benefits**  
*Germany*: limitation of unemployment benefits (before 2006: 0,5 to 32 months depending on age and years of employment, since January 1<sup>st</sup>, 2006: 0,5 – 18 months "unemployment benefit I"); long term unemployed only get much lower benefits (unmarried person: 351 Euro per month plus the costs for housing, unemployment benefit II); under some circumstances, the social legislation can result in a violation of civil rights (inviolability of the home and privacy of information), e.g. individuals sharing a home with recipients of unemployment benefit II must expect to receive home visits from welfare officials who will attempt to determine the precise relationship between the persons sharing the home: for if they are cohabiting in a quasi-marital relationship, the partner must contribute to the maintenance of the unemployment benefit recipient
- in some countries **exclusion of particular groups** from unemployment benefits, e.g. *Italy*: the unemployment insurance does not or only inadequate cover job loss risks for occasional workers or for young people who have been working for a short time, in general, the Italian system for unemployment benefits is completely lacking in protection measures for 'atypical workers', i.e. those with flexible labour contracts

Figure 7:  
Theoretical net replacement rates<sup>c)</sup>: Latvia,  
Lithuania, Estonia, Poland



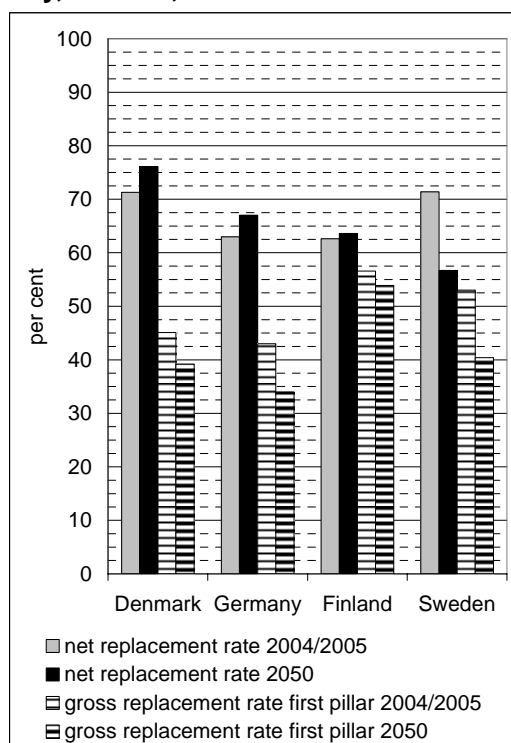
Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 8:  
Theoretical net replacement rates<sup>c)</sup>: Hungary,  
Slovenia, Czech R., Slovak R.



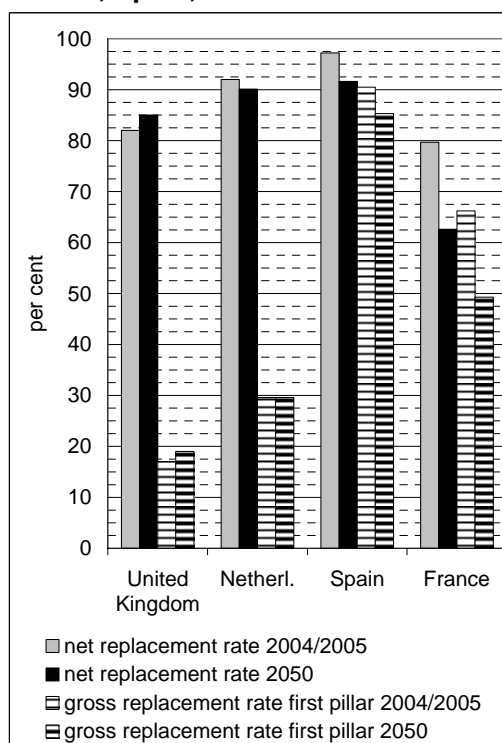
Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 9:  
Theoretical net replacement rates<sup>c)</sup>: Denmark,  
Germany, Finland, Sweden



Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 10:  
Theoretical net replacement rates<sup>c)</sup>: UK, The  
Netherlands, Spain, France



Source: Eurostat, © Werkstatt Ökonomie e.V.

<sup>c)</sup> Theoretical net replacement rates in % of average earnings, 40 years of contributions, retirement at age 65;  
First pillar: statutory pension schemes, regardless of whether they are funded or pay-as-you-go financed.  
Second pillar: occupational schemes, i.e. pension schemes linked to the employment status.  
Third pillar: individual retirement provision through insurance and retirement savings.

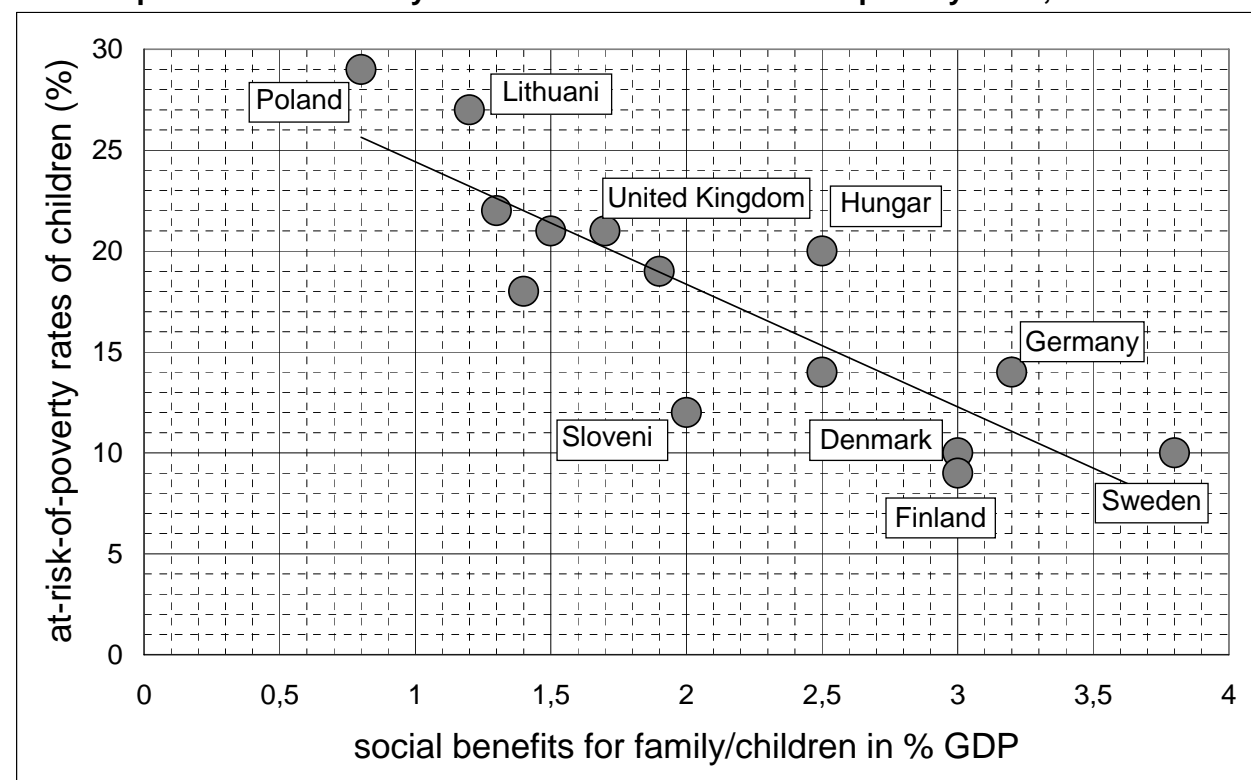
- in many countries only inadequate **compensation for low wage labour**, e.g. *Germany*: all approaches to introduce “combined wages” (with state subsidies) failed

### 3.5 Family and child support

- in some countries growing informal employment, e.g. *Poland*: more than 1,3 million “illegally” employed Polish people in 2004 (four % of the total workforce), in addition, about 1,5 million foreigners work illegally, most of these workers are not covered by any element of social security systems
- in many countries very low benefits for families and children despite the fact that there is a clear correlation between the level of social benefits for families and children and the degree of child poverty, see figure 11

Figure 11:

#### Social expenditures for family/children in % of GDP vs. child poverty rates, 2005



Source: European Commission, Eurostat, own calculations © Werkstatt Ökonomie e.V.

### 3.6 Special topics of broad application

- General Comment No. 19: “Refugees, stateless persons and asylum seekers, and other disadvantaged and marginalized individuals and groups, should enjoy equal treatment in access to non-contributory social security schemes, including reasonable access to health care and family support, consistent with international standards.”
- two million migrants arrive in Europe from other parts of the world each year, immediately after the 2004 enlargement of the EU, Ireland and the UK saw the largest inward migration ever recorded in each state; Spain’s inward migration has risen by 400 % in the last ten years
- **lack of access to social services**: greater difficulties than other social groups in accessing services and hence in exercising their rights (obstacles in access to counselling, legal advice, child care and other services), different reasons: from the straight-forward denial of rights to a lack of information or understanding about the availability and functioning of the social services
- **undocumented migrants** have no access to social services or are afraid to make themselves known to service providers in many EU countries (the majority of undocumented migrants entered Europe legally but after a period of time experienced difficulties and found themselves without the relevant permit for residence or employment, there may be from 5 to 8 million undocumented migrants in Europe, but they largely remain invisible in the eyes of policy makers); in addition, the widespread discrimination through limited access to

education is of indirect importance to the right of social security (as it causes further poverty), the same goes with the lack of consideration within social inclusion strategies

### 3.7 International obligations

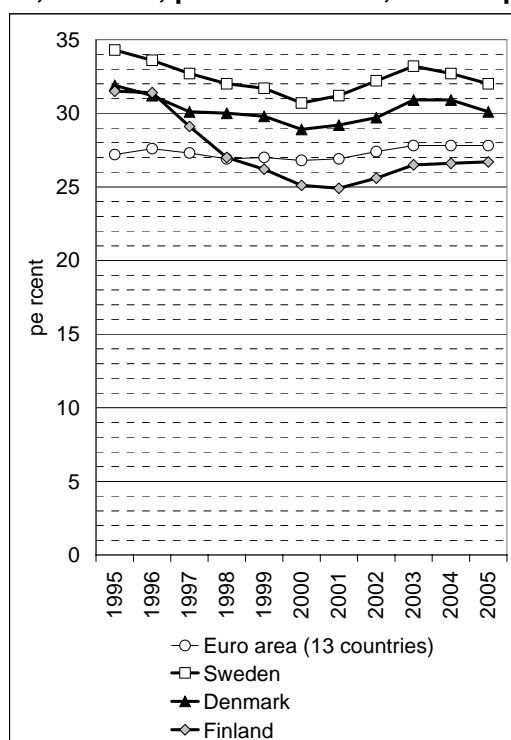
- General Comment No. 19: “Agreements concerning trade liberalization should not restrict a State Party’s capacity to ensure the full realization of the right to social security” – the EU trade policy does not fulfill this requirement

### 3.8 Measures “within the maximum available resources” of states

- General Comment No. 19: “To demonstrate compliance with their general and specific obligations, States parties must show that they have taken the necessary steps towards the realization of the right to social security within their maximum available resources”
- figures 12 – 15 show **significant differences** between EU member states regarding the total expenditure on social protection
  - slight increase in the Euro area (13 countries), but some of the Euro countries experienced a decline (Sweden, Denmark)
  - significant decline in the Baltic States (Estonia, Latvia and Lithuania) despite the low level compared with the average of the EU area

Figure 12

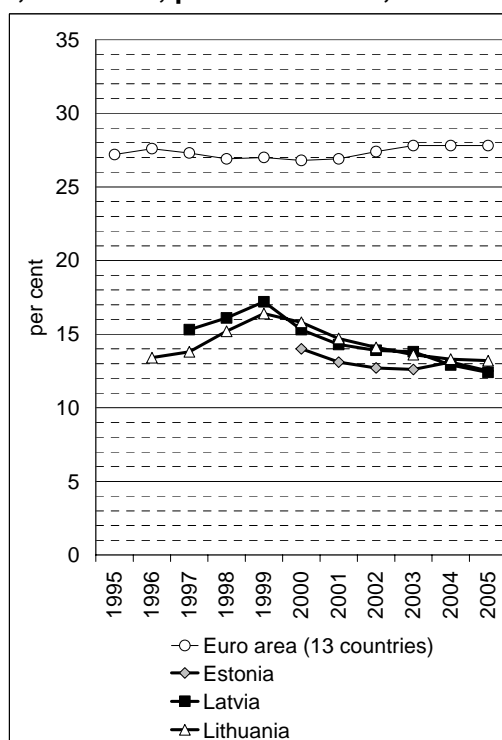
**Total expenditure on social protection: Denmark, Finland, Sweden; per cent of GDP, current prices**



Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 13

**Total expenditure on social protection: Estonia, Latvia, Lithuania; per cent of GDP, current prices**



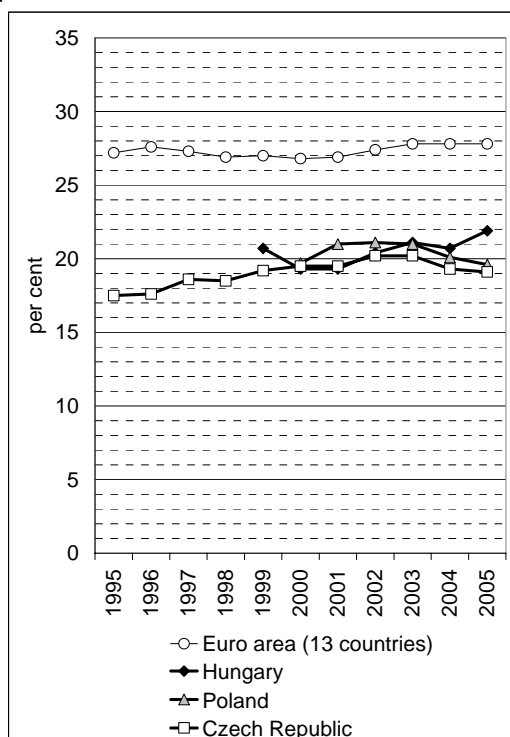
Source: Eurostat, © Werkstatt Ökonomie e.V.

- the risk-of-poverty rate would be much higher without social transfers (see Germany, figure 16) which clearly indicates the need for these transfers
- in some countries the risk-of-poverty rate after social transfers rises much faster than the rate before social transfers (e.g. Germany, figure 17) – a clear indicator for the fact that expenditures on social protection are **not sufficient** which violates the right to social security
- only a very small share of the total expenditure on social protection is spent for combating social exclusion (in Germany less than 0,5 % of GDP, see figure 18)



Figure 14

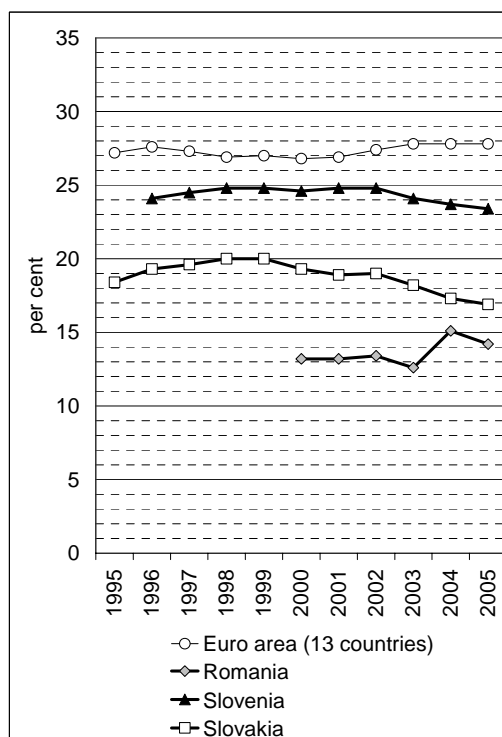
**Total expenditure on social protection: Hungary, Poland, Czech Republic; per cent of GDP, current prices**



Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 15

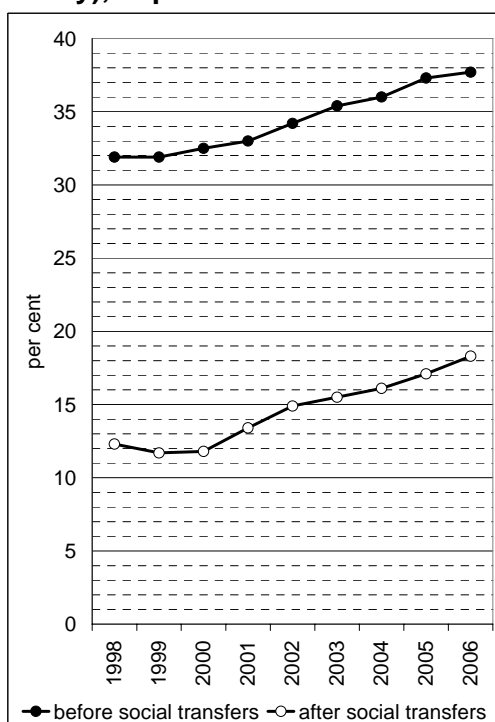
**Total expenditure on social protection: Romania, Slovenia, Slovakia; per cent of GDP, current prices**



Source: Eurostat, © Werkstatt Ökonomie e.V.

Figure 16

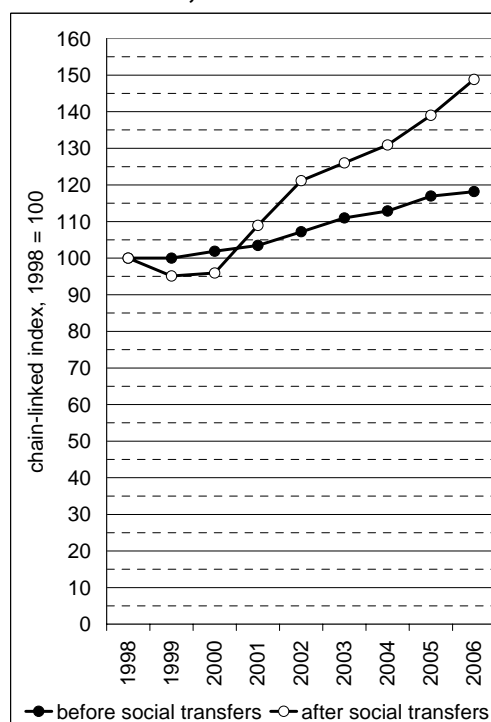
**At-risk-of-poverty rates before and after social transfers: Germany (for the whole of Germany), in percent**



Source: SOEP, © Werkstatt Ökonomie e.V.

Figure 17

**Changes of at-risk-of-poverty rates before and after social transfers: Germany, chain-linked index, 1998 = 100**



Source: SOEP, © Werkstatt Ökonomie e.V.

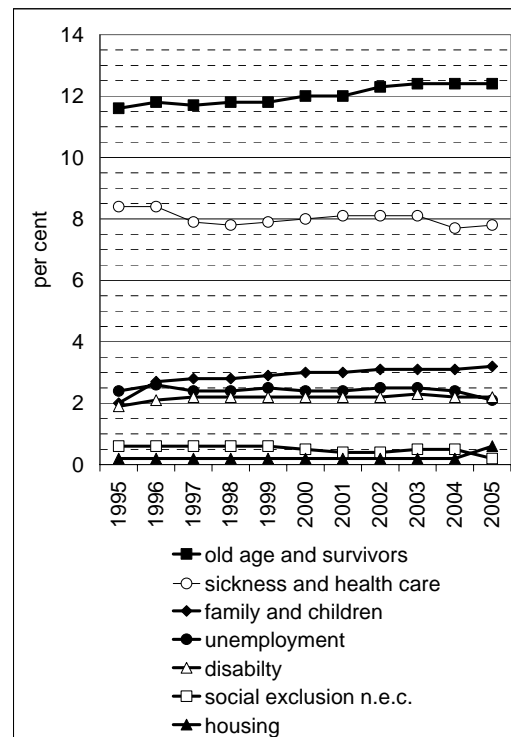
- the most dangerous threat to social transfers and to social security comes from the disastrous disorder of the **global financial system** and in particular from the role institutional investors play

#### 4. Some recommendations

- **tax reforms** in the interest of people enabling states to fulfill their obligations regarding the right to social security (to respect, to protect and to fulfill the right)
- **restrictions and rules** for privatization and liberalization of social security systems
- re-consolidation of social security systems in accordance with principles of **solidarity**
- defining **measurable targets** for the different areas of social security
- introduction of **minimum income systems** and/or of basic income systems which allow for a dignified life and establishing of a benchmark for social public investment in minimum income systems
- strengthening the social policy instruments of the EU (the Open Method of Coordination on social policy areas has proven as inadequate)

Figure 18

**Types of expenditure on social protection: Germany, per cent of GDP, current prices**



Source: Eurostat, © Werkstatt Ökonomie e.V.

Klaus HeideI, September 2009

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