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"More responsibility for all!" German Liberal Health Care Policy 2009-2013

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Abstract : *The paper deals with health care policy in Germany between 2009 and 2013 during the Second Merkel Cabinet. It examines particular reform steps and their impact using evidence from various sources (policy papers, magazines, newspapers) considering their relation to the original intension of the governing FDP presented as a liberal approach. The research shows firstly the volume of liberal aspects in the health care policy concerning particular key players in the system and secondly ponders their real impact from the perspective of patients´ independence (transfers between insurance companies, decisions about the type of procedures, etc.).*

Keywords : Health Care System, Liberal Health Care Policy, Zusatzbeitrag, GKV, FDP, Philipp Rösler

Introduction

According to most studies, a distinctive *liberal health care policy* can be defined. The aim of this paper is to explain what a *liberal health care policy* could mean. Since "liberal" may take on different meanings depending on the geographical or political context (US, Europe, Germany), this paper uses the standardised concept prevalent in German literature. In contrast to a social democratic or a conservative one health care policy, a liberal health care policy is usually characterized by an increased influence of the insured persons compared to other key players in the system (state, insurance institutions, and health care providers). This opinion is briefly mentioned by Bandelow (Bandelow, 1998), repeated by Lauterbach (Lauterbach, 2009), or Czada (Czada, 2005) and broadly accepted by most authors nowadays (e.g. Funk, 2009). Despite general scepticism to define a liberal policy (Bandelow, 2006) this paper tries to describe at least some feautures.

The question formulated by numerous authors is, what could be the measure of influence of particular players; in other words, which decision makes one of the players more influential than the others. From one point of view, it is necessary to focus on benefits. Broadly speaking, the higher the benefit is, or the less money patients are charged (gaining the same quality of health care), the more liberal the policy is, since it leaves him money for other fields. This approach seriously impedes the understanding. In my opinion it is much more relevant to focus on the second aspect of liberal attitude – independence. In accordance with the neoclassical microeconomic approach (acknowledged by most liberal decision makers) every consumer prefers the freedom of choice anytime it is given, in order to choose the most beneficial option. Various fields, where freedom and social responsibility tend to clash and at the same time no significant financial aspect occurs (home births, vaccination), are not covered by this paper. Surely there are always some additional information costs, which may exceed the added value. Nevertheless, I am working on the premise that in comparison with other decision fields (housing, leisure

time, etc.) patients still devote much less time to the health-related decisions (Braun, 2010: 142).

Concerning patients´ expenses, there is no clear link between costs and quality. Various authors say that patients tend to protect quality, whereas employers usually fight for affordability. In this paper two facts are distinguished – reforms steps "in favour of someone" and "giving more financial benefits to someone".[1]

The only political power promoting a constituently *liberal health care policy* in the recent period has been the Free Democratic Party (FDP), being part of the governing coalition between 2009 and 2013. There are some studies evaluating the impact of reforms 2010 and 2011. However, so far no attempt has been made to examine the effect through the prism of *liberal health care policy*. The aim of this article is to assess particular reform steps of the FDP and their impact on patients. The main question is to what extent the liberal vision is put into practice and whether it generates more space for decision making and in fact more freedom and responsibility for patients.

For this purpose three levels of analysis are distinguished in the paper – the original intention inside the political party, which reflects the ideas and approaches of both the governing party and the individual (the Minister of Health Care), the necessary compromise in form of a coalition agreement depicting either the most important goals for the party or the points acceptable for the other party, and finally the tangible results of the policy in form of legislation.

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[1] Certainly the analysis is limited by the field of traditional, more or less evidence based medicine. In some cases less traditional approaches are mentioned. For the purpose of this paper the freedom of choice does not cover many alternative approaches, such as homeopathy, TCM, etc.

On every level of analysis we have to distinguish between reform steps that are nominally in favour of one of the stakeholders and their real impact and justification. In some parts it is necessary to take other measures and circumstances into consideration.

Since there is a solid basis for studying conservative or social democratic attitude towards health care policy throughout German history, this paper may enrich it with a missing component – a description of liberal approach. However, due to limited sources the paper should rather present the way to tackle to problem. For a complete answer a more profound analysis would be necessary. However, it can be still based on one example. Much better results could be expected comparing two "liberal" governments or a government constituted by FDP and the Social Democratic Party.

This analysis is based on various sources - official policy papers and announcements (more than 40 press releases), comments in various newspapers and interviews with key politicians, mainly on the radio interview with Philipp Rösler from 2010.

Ideas inside FDP

On 27 September 2009, the Free Democratic Party (FDP), led by Guido Westerwelle, gained 14.6 percent of the votes in the parliamentary election in the Federal Republic of Germany. It was an immense victory to become one of the parties to form the Government again after ten years in opposition. One of the government seats was passed to Philipp Rösler. He became the first minister in the history of FDP and there were other primacies – he became the first federal minister born in Asia and the first federal minister ever who gained this position after he had stepped down as the leader of a government party.

The expectations connected with his engagement were quite high, since the ongoing financial crisis kept affecting Europe and required a

number of quick solutions. Even the Grand coalition from the previous legislative period broke the taboo and ended the existing principle – the equal sharing of payments between employees and employers and in addition to this it reduced the rate on both sides (from 7,3 pct. to 7,0 pct. and from 8,2 pct. to 7,9 pct. respectively). The aim was to stimulate the labour demand currently suppressed by the high labour costs.

Thanks to all these issues, the expected solution seemed to be unreachable and Minister Rösler himself repeatedly described the efforts to both save insured people´s money and increase the health care availability as a vicious circle (Rösler - Interview, 2010). However, FDP brought the generalised need for hope at the right time. Several issues worrying all stakeholders throughout the last decade should be tackled in an innovative way.

The first level examined in this paper is, as mentioned before, is the FDP Electoral Programme 2009 (FDP Electoral Programme, 2009). It represents the broadest basis showing the core elements of the allegedly liberal reform. One of the cornerstones of the liberal electoral programme is the link between solidarity and personal responsibility. Apart from general statements more or less emphasizing these two values, eight key points should be pointed out. The relevant section is titled “Solidarity and individual responsibility instead of state medical care”.

Firstly, the aim was to strengthen the competition between insurance companies. Obviously, this Government was not the first one to try to strengthen the competition, effectively resulting in better patient conditions. However, their main concern consists in the introduction of law enabling insurance providers to charge an additional fee (*Kassenindividueller Zusatzbeitrag*). It should allow providers to focus on different market segments on one hand, and on the other hand, provide more space for decision making among patients.

Secondly, every individual should have the right to opt for an alternative therapy (after a discussion with the physician). In case this is

not covered in the insurance, the procedure should be covered up to the level of the official equivalent.

Thirdly, conditions for the introduction of electronic health insurance cards should be settled, as soon as the informatics reaches the appropriate level. This step should bring far more control over individual expenses. In connection with expense control, another measure was intended – refund of expenses (*Kostenerstattungsprinzip*). On the other hand, the practice fee (*Praxisgebühr*) should be cancelled.

Another important idea is clearly defined in the next articles. It states that the solidarity principle should be transferred as far as possible from the health care system to the sphere of social system, which implicates the liberal definition of health care system.

Taking all these intended measures into consideration, we can observe a clearly liberal programme, working on very liberal assumptions and standards of political thinking. However, there are several points that emphasize solidarity instead of individual responsibility. The most obvious example is the way of funding in companies within accident insurance. This intension represents a very strong tendency to spread the burden between employers and employees.

To get a more complex overview and to understand how much liberalism is present in the electoral programme, it has to be compared with the electoral programme of the winning party in the second election – Christian Democratic Union of Germany and the Christian Social Union in Bavaria (CDU/CSU) (CDU/CSU electoral Programme, 2009). A closer look at the document shows that the health care section is similar to the FDP´s, yet it may differ in some reform steps.

One of the differences is that CDU/CSU suggests introduction of supporting measures for strengthening competition among insurance providers, with focus on health care availability in the countryside. There is no mention of the possibility to introduce the *Kassenindividueller Zusatzbeitrag* and enable particular insurance providers to focus on

various income groups or segments. After all, in the next campaign, where the CDU/CSU suggested the introduction of a moderate version of the additional fee, the intended Health Care Minister Hermann Gröhe warned of a "sharpened competition" (Gröhe, 2013).

The alternative therapies and their financing as well as electronic health insurance cards are not objects of interest in the latter document. Although they express their intention to push for the motivation of insured persons to save money, there is no explicit goal, such as introducing the refund of expenses.

In contrary, there are some identical parts of the programme, such as the emphasis on prevention and awareness. Both parties are also working on the premise that the freshly introduced *Gesundheitsfonds* is insufficient and mention the need to fix it. As a complicated and welcomed compromise, no political party had the intension to cancel it.

To sum up, the Electoral Programme FDP 2009 contains more liberal aspects as defined at the beginning of this paper. FDP clearly devised more individually-oriented reforms and measures which facilitated more decision making space for individuals.

Coalition Agreement 2009

For a deeper analysis it is necessary to examine to what extent the ideas and concepts from the FDP electoral programme were adapted to the Coalition Agreement (Koalitionsvertrag, 2009). Alternative therapies, electronic health insurance cards, refund of expenses and funding in companies are left out completely, whereas new priorities are set instead. From the measures in favour of insured persons, we can highlight three main objectives, as cited in the chapter 9.1 of the Coalition Agreement. The return from private health insurance back to the state health system (*Rückkehr*), which had not been treated before, became one of the priorities. It clearly shows the interest of both parties to lure wealthier

people back to the state-run system, in order to preserve the hope for balance of the budget in the future.

In order to ease entrepreneurs from the burden of quite high fees (7.3 pct. at the moment) and in order to strengthen domestic labour demand both parties shifted the burden rather towards patients and decided to fix the employer´s rate at this level (7.3 pct.) and for the future to make only the employee´s part flexible. The intention is clearly described in the document and so is the justification: "The insurance costs must not impair the demand on labour." However, "a special commission" for this purpose should be established.

The availability of health care is defined more on the basis of the CDU/CSU vision than on any other suggestions. A substantial shift from the effectiveness in health care to its availability in the countryside is apparent. Moreover, the document states that some medical activities may be transferred to non-medical professionals. This illustrates the effort to alleviate the administrative burden.

For a more profound understanding, it is worth mentioning that the opening sentence of Chapter 9.1 dealing with health care states that "German Health Care system should be open to innovation". The document foresees some steps in this direction, e. g. broadening the competence of the National Association of Statutory Health Insurance (*GKV-Spitzenverband*).

In the following part of the paper the particular impacts of Rösler´s reform are examined. In accordance with the most common definition, four pillars of the system are analysed one after another. This level of analysis shows the results which are clean and tangible, however, only a limited amount of liberal intension may be observed here.

Insurance agencies

The first key player to be analysed is insurance providers. It is necessary to mention first that a set of decisions had been made just before the new Government started to work. As of 1 January 2010 several directives entered into forced bringing a broader decision-making space for Insurance providers (BMG, 2009). According to the directive they were eligible to declare insolvency, regardless of the level they are supervised from. Until then only federal insurance companies had been authorized. Considering the frequency of insolvency proceedings in the Federal Republic of Germany, it seems to be (or at least it seemed to be at the time) a shift to a more autonomous behaviour of insurance companies.

Besides the prolongation of several interim measures taken by the previous Government, the Federal Ministry of Health proposed a piece of legislation (approved by the Government on 24 February 2010) concerning the health insurance system. The interesting part of this legislation is dealing with the independency of insurance providers. From then on they were able to change the constitution of their management board (*Verwaltungsrat*) by carrying out a very simple change to their statutes (BMG, 2010-1). Due to the increasing frequency of cases of two merging insurance agencies of various types (typically *Betriebskrankenkasse* and *Allgemeine Ortskrankenkasse*), this reform change had been strongly demanded by the Federal Joint Committee and acknowledged by health care providers (BDI, 2010). In addition to this, this legislation act moderates the payment conditions for inspection services (*Prüfdienste*).

In September 2010, there was a turning point in the relationship between Roesler´s ministry and insurance agencies. The first news about the balance of payments of insurance agencies turned up in those days. Even though insurance agencies were still showing surplus of 1.1 billion euro, the administrative costs increased for the first time since 2008. Exactly this might have been the impulse of Rösler to reduce the amount of money wasted every year in this area.

After a long discussion the Federal Government approved the legislation act dealing with financing of health insurance (GKV-FinG) on 22 September 2010, which primarily fixed the administrative costs on the level of previous year for the next two years. However, all other changes were carried out in favour of insurance agencies. Firstly, the legislation act cancelled the reduction of employers' rate and returned to the level of 14.6 pct., which brought a slightly bigger burden back to insured persons. In addition to this, the employers' part was fixed on the level of 7.3 pct. leaving space for an increase only on the employees' side.

Undoubtedly, this reform measure illustrates the intention to relieve insurance companies from tight financial conditions without burdening the German industrial base more than it is necessary. Moreover, the act was not approved unanimously, it required long-lasting debates, primarily between FDP and CSU, with the participation of CDU as mediator (Rösler- Interview, 2010). It is interesting that state ministers, representing local governments, were strongly against this proposal. The reason was that most of them were CSU nominees.

There were also further reform measures showing the intention either to alleviate the unfavourable financial situation or to stoke the competitiveness of agencies. There are a few examples from the first group. Firstly, payments for additional services negotiated beyond regular payments (*Mehrleistungen*) were reduced by 30 pct. and for the coming years it should have been a matter of re-negotiation. Secondly, the value of payment unit for family physicians was reduced by 50 pct. for the year 2011 and by 25 pct. for the year 2012 with the exception of dentists in the new federal states of Germany, where the financial situation was extremely tight. It resulted in a row of protests among general practitioners. Rösler called this protest "unfair against their patients". Instead of calling for more solidarity he clearly stood for insured persons (FAZ, 2010-1). Finally, FDP limited other parts of family physicians financing; apart from payment unit (*Punkt*), all extra-budgetary and quantitative costs were fixed.

The most important result of Rösler´s efforts was the correction of *Zusatzbeitrag* introduced, as mentioned before, by the Grand coalition four years before. In the previous years it gained only a limited efficiency, since the total extra fee paid by the insured persons could not exceed 37 euro a month. The fact that from 2011 onwards the charge might have been considerably higher, giving the insurance companies which decided to introduce *Zusatzbeitrag* much more space for creativity. The possibility to differ in price of the product was an essential component of marketizing of the sector.

Needles to repeat that this part of the proposal was approved after a great deal of criticism from CSU and the introduction of social equalization (*Sozialausgleich*) setting another limit for payments followed soon. Nevertheless, some cases of difficulties turned up in the first months after entering into force and a number of patients became debtors (FAZ 2010-2). Again, the impulse for CSU to finally agree with the whole concept might have been the support by the Cologne Institute for Economic Research (FTD, 2010).

To summarize the attitude of FDP towards insurance providers, at first, in a serious need, they cut off their administrative financing. Apart from it, insurance companies benefited from much bigger space for independent decision making. Another thing is, to which extent they were able to facilitate this room.

The previous part illustrated how the financial sources of health care providers were reduced by the Government in 2010. Apart from this financial limitation, new obligations on the providers' side were introduced. For instance every decision of the Commission of Hospital Hygiene and Infection Prevention at the Robert Koch-Institute (KRINKO) became legally binding after January 2012, which resulted in severe complications in some hospitals. It affected, above all, middle-sized hospitals with the capacity of over 400 beds. These hospitals were obliged to implement relatively strict hygiene measures, yet they were often lacking personnel (Focus, 2012).

In contrary, patients benefited from this measure, since it helped to improve their ability to compare different hospitals. In fact, it was another step towards the autonomy of patients (BMG 2010-3).

It is necessary to mention a process leading to more independence in creating Medical Care Centers (*Medizinische Versorgungszentren*). In debates about the followers of outpatient clinics (*Polikliniken*), in the former German Democratic Republic experts tend to criticise this concept due to lack of prevention from non-transparent financing. Moreover, the criticism was aiming at the limited decision-making scope on the patients´ side. This step exceptionally favours medical care providers (or at least some of them) at the expense of patients.

Patients

The last subject left to be examined is Patients (insured persons). Some benefits for them were presented above, others have to be explained. The next part should focus on innovations in the field of medication, where some conditions were obviously liberalised. Most of them are connected with prescription free drugs. Some commonly used drugs were made prescription free, e.g. some proton pump inhibitors (the latest generation of antacida) or pain relievers. The impact on patients comfort is doubtful (independence in usage and no need to visit doctor on one hand, misuse and higher risk of addiction on the other hand) (ARZTNEIMITTELBRIEF).

The effort to compare the extent of newly introduced prescription free medication with the activities of other governments would utterly exceed this paper´s scope. However, FDP took the initiative and followed the path of further liberalising the market, sometimes even against other Coalition parties.

In accordance with the opening sentence of the Coalition Agreement, FDP wanted to be open to innovations as much as possible and in August 2010 the Ministry of Health submitted a new legislation act

dealing with the medication market (*Gesetz zur Neuordnung des Arzneimittelmarktes – AMNOG*). In the recent decades everyone got used to the fact that total expenses of the statutory insurance steadily increase. The incomes increased more or less proportionally. However, the expenses on medication grew twice as fast total incomes in the last couple of years. The increase in 2009 and in the first quarter of 2010 was more than 5 pct. The same increase calculated only in innovative drugs reached 8.9 pct. whereas there was a slight decrease in generics (-2.1 pct.).

It is necessary to describe the structure of medication expenses in 2009 to better understand the decision of the Ministry of Health concerning the focus on innovative health care. Although the share of pharmaceutical innovations on the amount of prescribed pills was only 2.5 pct., the share of innovation costs on total expenses on medication is over 25 pct. in the long term (BMG 2010-4). To sum up, there were clear practical reasons to concentrate much more on the situation in the field of innovations instead of seeking solutions for generics. The rebate for pharmaceutical companies was increased to 16 pct., which only resulted in rise in prices (BMG 2010-5).

This piece of legislation positively affected insurance providers, whereas the patients accepted it with mixed feelings. This measure gave them a broader spectrum of innovative products, yet it was accompanied by higher prices in other groups of medication.

Conclusion

The results shown above illustrate the fact that in some aspects FDP introduced reform measures in favour of patients, though sometimes with doubtful impacts. However, with only one exception all measures taken by FDP resulted in more space for decision making and in fact in more independence as well. Some measures, such as high hygiene standards for some hospitals, influenced patients indirectly, bringing additional information for them.

In some cases FDP carried out liberal health care policy towards insurance agencies. The limitation of financial resources connected with the permission to introduce *Zusatzbeiträge* shows the same principle as in the case of patients. It seems that independence and sovereignty are preferred to giving additional finance resources to particular key players. However, the tendency is much more apparent in case of patients.

Concerning the defence of some reform steps, FDP paid much more attention to rhetorical expressions about patients´ welfare. In contrary, there are only very few intentions to stand up for insurance providers in Rösler´s explanations.

The pillar benefiting at least is the health care providers, especially hospitals. Some cuts and restrictions caused severe problems to them. Like in previous cases, even health care providers sometimes benefited from more space for decision-making.

Compared to the other governing parties, CDU/CSU, FDP promoted the most liberal health care policy in terms of independence. Even in the fields, where the original starting point of both parties was the same, FDP played the role of initiator and advocate of most reform steps, whereas the CDU was much more cautious. It would be too speculative to consider CDU less principled from this point of view. Their position can be explained through the prism of their mutual relationship with CSU. After all, the aim of this paper was not to come to the conclusion to which party CDU was closer.

To sum up, FDP devised quite liberal health care policy in terms defined for the purpose of this paper. The reform steps described above might illustrate any other health care policy in a situation, when FDP gains the seat of the Minister of Health Care. As mentioned above, the extent of this analysis does not allow offering a definite solution and a convincing conclusion based on a robust research. It would be necessary to examine various sources – media, internal documents, etc. to gain a more plastic picture.

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