DEVELOPMENTS

Current Reform Efforts of German Consumer Insolvency Law and the Discharge of Residual Debts

*By Dörte Busch**

A. Introduction

The new Insolvency Statute (*Insolvenzordnung – InsO*),[1] which came into force on 1 January 1999, sets a discharge of residual debts (*Restschuldbefreiung*), sections 286 – 303 InsO. When the debtor is a natural person, he or she can request the discharge on the basis of two different insolvency proceedings: either in accordance with the regular insolvency proceedings or in accordance with the consumer insolvency proceedings.[2] The discharge of residual debts has both a social and an economic function. On the one hand, it serves as personal protection for the debtor, especially his rights of privacy and dignity (*allgemeines Persönlichkeitsrecht*); it will give debtors a new perspective. On the other hand, the provisions intend to (re)integrate debtors into economic life, thereby[3] avoiding illegal employment.

Sections 286-303 InsO are the result of an intensive reform discussion. Since the discharge of residual debts was previously unknown under German law, reformatory efforts are not yet complete. Quite the contrary, six years later it seems as though both proceedings take a new turn; today, they are again under consideration and there is a very serious discussion about their continuing into the future. In fact, fundamental modifications are to be expected. This is why the following presents the current developments of the consumer insolvency proceedings and the discharge of residual debts.

* Martin-Luther-University, Halle-Wittenberg, Faculty of Law. Email: doerte.busch@jura.uni-halle.de

[1] GERMAN INSOLVENCY STATUTE, 1994 BGBl. I, 2866; Insolvency Statute *(Insolvenzordnung, InsO)* in PDF format (as of 1 January 2004) available at: http://www.iuscomp.org/gla/statutes/statutes.htm.

[2] *See* Susanne Braun, *German Insolvency Act: Special Provisions of Consumer Insolvency Proceedings and the Discharge of Residual Debts*, 7 GERMAN LAW JOURNAL 59 (2006).

[3] Wolfhard Kohte, Preliminaries §§ 286 *in* FRANKFURTER KOMMENTAR INSOLVENZORDNUNG (Klaus Wimmer ed., 4th ed., 2006), para. 32.

https://doi.org/10.1017/S2071832200004879 Published online by Cambridge University Press

B. Empirical Development

In the first years after the commencement of the Insolvency Statute the number of debtors submitting consumer insolvency proceedings was not as high as expected. Although in 1999 in Germany there existed 2.77 million over-indebted households,[4] only 1,634 debtors successfully initiated consumer insolvency proceedings.[5] The reason for such a small number of proceedings was found in the insolvency law itself. Insolvency proceedings will only execute when the assets of the debtor exceed the costs – otherwise the court must dismiss the initiation request according to section 26 (1) InsO. However, most consumers cannot cover these costs, even with the aid of their families and friends.

Usually, such poor parties are guaranteed access to justice by way of legal aid (*Prozesskostenhilfe*), section 114 et seq. Code of Civil Procedure (*Zivilprozessordnung – ZPO*). Empirically, legal aid turned out to be an impractical way to attain the discharge of residual debts, because most courts found that the insolvency requirements in section 26 (1) InsO take priority over legal aid. Only a minority of courts opened insolvency proceedings on the basis of legal aid. In consequence, the majority of over-indebted individuals had no accessible means to discharge their residual debts.

In 2001, the legislature has introduced the deferment of insolvency proceedings costs as a special kind of legal aid. According to section 4a InsO, any debtor who is a natural person and who has filed an application for discharge of residual debts is granted deferment of insolvency proceedings costs, provided that his assets presumably will not cover these costs.[6] As a result, only one year later the number of debtors, who requested insolvency proceedings and the discharge of residual debts rose to 21,441 persons. In comparison with 13,277 individuals who applied in 2001, this represents an increase of 61.5 %. In fact, the annual number of consumer insolvency proceedings have continued to increase since then, as shown in the following table:

[4] LEBENSLAGEN IN DEUTSCHLAND - DER 2. ARMUTS- UND REICHTUMSBERICHT DER BUNDESREGIERUNG, 50 (2005), available at: http://www.bmas.bund.de/BMAS/Navigation/SozialeSicherung/berichte, did=89972.html.

[5] *Id.*, 212.

[6] GESETZ ZUR ÄNDERUNG DER INSOLVENZORDNUNG UND ANDERER GESETZE, 26 October 2001, BGBl. I, at 2710.

https://doi.org/10.1017/S2071832200004879 Published online by Cambridge University Press

Openings of insolvency proceedings of individuals[7]

Year	Insolvency proceedings	
	Consumer	Regular
2003	33,269	28,141
2004	49,440	32,141
2005	71,435	33,865

C. Reform Efforts During the Last Three Years

While the previous government stressed the success of consumer insolvency proceedings in improving the situation of over-indebted households,[8] the new provisions in the Insolvency Statute (section 4a et seq. InsO) were criticised by the judiciary in 2002[9] due to the high workload the provisions created. Since the commencement of the InsO, this was the first time that modifications were demanded and, as an alternative proposal, a solution for over-indebted individuals beyond insolvency law (such as the statute of limitations) was suggested.

I. The discussion proposal bill

As a matter of normal procedure for new codification, the Federal Ministry of Justice presented a "discussion proposal bill" amending the InsO in April 2003.[10]Primarily, it contains corrections to the regular insolvency proceedings and to the procedure of settlement of debts as a part of consumer insolvency proceedings. For instance, the bill merges extra-judicial settlement with judicial settlement to strengthen the extra-judicial procedure – insolvency proceedings

[7] Klaus Kollbach, *Insolvenzstatistik 2005*, 11 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHT 99 (2006).

[8] *Lebenslagen in Deutschland - Der 2. Armuts- und Reichtumsbericht der Bundesregierung* (note 4) 212; *Stellungnahme des Parlamentarischen Staatssekretärs der Justiz Alfred Hartenbach vom 15. November 2002 zum Aufruf deutscher Insolvenzrichter und –rechtspfleger zu Wiederherstellung der Funktionsfähigkeit der Insolvenzgerichte und der Insolvenzordnung,* 22 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 1053 (2002).

[9] *„Aufruf deutscher Insolvenzrichter und –rechtspfleger zur Wiederherstellung der Funktionsfähigkeit der Insolvenzgerichte und der Insolvenzordnung"*, 20 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 929 (2002).

[10] *Entwurf eines Gesetzes zur Änderung der Insolvenzordnung, des Kreditwesengesetzes und anderer Gesetze*, so-called *„Diskussionsentwurf"*, available at http://www.vur-online.de/rechtsquelle/3.pdf.

https://doi.org/10.1017/S2071832200004879 Published online by Cambridge University Press

follow when the attempt to make an agreement out of court is unsuccessful. Then the court again attempts to reach an agreement, but, as now proposed, only on the basis of the out-of-court-settlement, only under certain conditions and only if the debtor so requests. Otherwise, the court opens the consumer insolvency proceedings. In order to relieve the court, the debtor does not submit a separate court-settlement. At the same time, however, the bill increases the necessary formalities connected with extra-judicial settlement, formalities with which the debt and insolvency advice agencies must comply.

Moreover, the discussion proposal bill proposes that successful court-settlement shall also be binding on creditors who are, without the debtor's fault, not named in the agreement. Critics, however, not only expect the debtor to be manipulated into settlement, but also an additional workload resulting from requests of creditors who were not involved in the extra-judicial settlement.

II. The ministerial bill

In a second step, a ministerial bill followed on 16 September 2004.[11] It also pretends to strengthen extra-judicial settlement: provided that it is obviously futile to reach such an agreement, an out-of-court-settlement is no longer foreseen as obligatory. Further, it cancels the binding impact of the court-settlement on un-named creditors. In the opinion of the Federal Ministry of Justice, the latter modification could possibly violate creditors' fundamental right of property as guaranteed under Article 14 German Constitution (*Grundgesetz – GG*). Since the bill does not contain any structural modifications taking into account the critique uttered, it has stimulated a debate as to which principles should be followed when reforming the consumer insolvency proceedings and the discharge of residual debts.

A statement of the Bavarian State Ministry of Justice,[12] that had introduced debt relief proceedings as a model of limitation to deal with the insolvency proceedings without remaining assets, was the catalyst. On 24 November 2004, the occasion of this statement, the State Ministers of Justice Conference established a new

[11] *Entwurf eines Gesetzes zur Änderung der Insolvenzordnung, des Kreditwesengesetzes und anderer Gesetze*, so-called „*Referentenentwurf*", 9 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHT Supplement 3 (2004) or available at http://www.bag-schuldnerberatung.de/download/Referentenentwurf%2016.9.2004.pdf.

[12] *„Überlegungen zu einer Reform der Verbraucherentschuldung"*, available at http://www2.justiz.bayern.de/daten/pdf/Reform_Verbraucherentschuldung.pdf.; *see also* Rainer Wiedemann *Brauchen wir eine Reform der Verbraucherentschuldung?* 11 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 645 (2004).

Federation-States-Working Group with the mandate to develop new reform models on the basis of the given proposals.[13]

D. Current Reform Models

Today, due to the possibility to defer costs, nearly all consumer insolvency proceedings are to be opened by the courts. There are certainly many debtors without assets and no relevant income who only need the insolvency proceedings to receive the discharge of residual debts. Nevertheless, highly complex insolvency proceedings must take place, requiring a substantial measure of costly administrative capacity. Additionally, by raising the remuneration of the administrator/trustee as one component part of costs (secion 54 no. 2 InsO), the amendment of the Regulation on Remuneration in Insolvency Proceedings (*Insolvenzrechtliche Vergütungsverordnung - InsVV*),[14] amending section 2 (2) and section 13 (1) InsVV, has increased the pressure for further reforms. All actors involved agree that the existing proceedings to be discharged on the basis of obligatory insolvency proceedings are not appropriate for settling insolvencies where the assets do not even cover the costs. There is widespread consensus regarding the necessity to simplify the structure of proceedings, thereby reducing costs.

Though this general consensus might seem to be a good starting point for constructive proposals, the actors are evenly divided on more specific issues. Whereas one half, represented by ministries of federal and state level, strictly works towards a change of system, the other half, acting for debtors and creditors as well, prefers to advance the established insolvency law system, even by extensive modifications. Hence, two basically different models determine the current discussion. As already implied, the first model is based on the statute of limitations, while the second model provides a new debt relief proceeding as a special kind of insolvency proceedings.

[13] Available at: http://www2.bremen.de/justizsenator/Kap8/hbeschl/Beschluss_oa_3_Konzentration.pdf

[14] 2004 BGBl. I at 2569, available at http://217.160.60.235/BGBL/bgbl1f/bgbl104s2569.pdf.

I. Essential points of the Federal Ministry of Justice's new conception

Before the Federation-States-Working Group published its first results, the Federal Ministry of Justice introduced the so-called "essential points of a new conception".[15] They are based on the fact that 80 % of individual insolvency proceedings take place without remaining assets and on the assumption that the proceedings are state-financed. Therefore, it disapproves modifications of the existing proceedings and argues for a completely new system. The Ministry underlines the importance of the discharge of residual debts, while at the same time replacing this term wit a new one: "debt relief proceedings". Although the new debt relief proceedings are grounded in the statute of limitations and provide no general enforcement proceedings, they will be implemented in the InsO.

Accordingly, the debtor will first be obliged to engage debt advice. After this he can request debt relief proceedings on the basis of a record of assets and of his creditors free of charge. During the debt relief proceedings he shall basically have the same obligations as contained in section 295 InsO. If creditors do not submit a request refusing debt relief, an absolute statutory period of limitations of 8 years shall apply. This period is only valid for creditors who are referred by the debtor. During the eight year period of limitations, creditors shall be entitled to undertake executions. Neither an administrator nor a trustee is involved. This model sets the deferment of costs aside.

However, insolvency proceedings will only be open for debtors who are able to pay the proceedings' costs and additionally to meet at least 10 % of demands. In that case the debtor shall be discharged after 4 years; if he can meet 35 % of total demands, he is discharged after only 2 years.

II. The "Wustrauer Modell"

In February 2005, a meeting took place in Wustrau, a small town in Brandenburg close to Berlin - the so-called "*Wustrauer Klausurtagung*" - with representatives of several institutions, including the Federal Ministry of Justice, the Federal Ministry of Family, ~~s~~Seniors, Women and Youth, State Ministries of Justice and representa-

[15] *Bundesjustizministerin* Brigitte Zypries, *Rede auf dem Zweiten Deutschen Insolvenzrechtstag*, 3 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 157 (2005), also available at: http://www.bmj.bund.de/enid/0,0/Maerz/Berlin__ss___3_2__5_-_Insolvenz_s8.html; *see also Zwischenbericht zu einer Reform der Verbraucherentschuldung* 8 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 445 (2005); also available at http://www.forum-schuldnerberatung.de/download/zwischenberichtinsobmj032005.pdf.

tives of debtors and creditors. The discussions in Wustrau started from the above described essential points of the Federal Ministry of Justice. However, the majority of participants, including the Bavarian State Ministry of Justice, rejected the conception. Instead they developed the so-called "*Wustrauer Modell*".[16]

This model avoids the fundamental weaknesses of the limitation-of-action-based conception and acts on the proposal given with the graded periods to be discharged. Nevertheless it takes into account the problem of costs and offers a balance between the interests of debtors, creditors and the public. The "*Wustrauer Modell*" is an insolvency-law-based model with a modified role of trustee depending on the type of proceedings. It distinguishes between debt relief proceedings and the common consumer insolvency proceedings with the discharge of residual debts. The decisive criterion is a prognosis whether, at the end of the insolvency proceedings, the proceeding costs and at least 10 % of the insolvency claims will be covered. In the case of positive prognosis, the court opens proceedings and a trust period of five years begins. The proposal also includes a graded period: if the debtor is able to fulfil at least 25 % of insolvency claims, the period lasts only four years. In contrast, relief proceedings take 6 years.

A trustee is responsible for the proceedings, but his functions are not comparable with the duties of the trustee in section 313 InsO. Since the debt relief proceedings are conceived for debtors without assets and relevant income, there are no remaining assets that have to be distributed to creditors. Consequently, there is no necessity of filing, of determining claims or of leading the schedule; presently, these tasks comprise the trustee's main function. They cause enormous costs and do not contribute to the debtor's prior aim of being discharged. Therefore, it is justifiable to renounce these measures. This is only one proposal for saving expenses, another being the possibility of cost absorption by the debtor. Thus, debt relief proceedings are at one's own expense and the deferment of costs (section 4a et seq. InsO) is no longer expected.

Both types of proceedings can be interchanged. If the conditions of the insolvency proceedings are fulfilled, the debt relief proceedings shall lead over to insolvency proceedings and vice versa.

---

[16] Klaus Hofmeister/Ulrich Jäger, *Kleintransporter statt Sattelschlepper, Das „Wustrauer Modell" - Ausgangspunkt für eine Reform der Verbraucherentschuldung* 4 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 180 (2005).

III. Other reform suggestions

These two models are not the only ones currently being discussed in order to reform the insolvency proceedings of individuals. All reform suggestions aim for solution on the basis of insolvency law; they are all basically orientated on the "Wustrauer Modell". The model introduced by the Federal Ministry of Justice only plays a role at federal and state level, though this proves to be a decisive role. However, neither representative institution of debtors nor of creditors prefers this model. Rather, they are involved in enhancing the insolvency-law-based conception. In the following, these proposals will only be mentioned.

Already in 2003, Heyer[17] has suggested a new proceedings structure for the discharge of residual debts. His model, like the "Wustrauer Modell", also consists of two different proceedings. His main point is the disclaimer of the opening of insolvency proceedings, when the debtor has no assets and no income. Instead, Heyer suggests strengthening the opening proceedings.

The model developed by the German Bar Association[18] is also related to the "Wustrauer Modell". However, the new proceedings suggested are relatively complex because they contain a determination of claims, albeit in a less expensive form via the Internet. The debtor is to repay the deferred costs unless he is a recipient of unemployment and social benefits according to Social Security Code II and XII or a comparable person.

Furthermore, the *Bundesverband der Verbraucherzentralen e.V.*[19] has issued a conceptual statement that is closely related to the "Wustrauer Modell". The latter also applies to the proposals of a working group, which was spontaneously founded by practitioners at a publisher's forum, the *ZAP-Verlag*.[20]

---

[17] Hans-Ulrich Heyer, *Reform des Restschuldbefreiungssystems nach §§ 286 ff. InsO, Restschuldbefreiung bei Masselosigkeit ohne Eröffnung des Insolvenzverfahrens* 5 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 201 (2003); *Restschuldbefreiung im Insolvenzverfahren* 24 (2004); *Reform des Restschuldbefreiungssystems* 19 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 1009 (2005). *See also* Ulrich Jäger, *Masselose Verbraucherinsolvenzverfahren ohne Verfahrenseröffnung - eine Neubelebung einer „alten" Idee* 1 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 15 (2005).

[18] Hugo Grote, *Vorschlag der Arbeitsgemeinschaft Insolvenzrecht und Sanierung des Deutschen Anwaltvereins zur Änderung der Regelungen zur Restschuldbefreiung* (2005).

[19] Verbraucherzentrale Bundesverband, *Der Referentenentwurf zur Änderung der InsO aus Sicht der Verbraucherzentralen* 12 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 767 (2004).

[20] Ulrich Schmerbach, *Strukturreform InsO* 2 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 77 (2005).

IV. Appraisal of Models

The concept of insolvency proceedings for individuals and the legal institution of the discharge of residuals debts are still new under German law. It would be unrealistic to assume that the legal design covers all practical requirements and does not have any gaps. Therefore, it was clear from the beginning that, after a certain time, the provisions were to be adapted to actual developments. This is an entirely normal procedure.

However, the debate on whether to change the system, and on what principles, is astonishing. In 1992, the Commission on Reform of the Law of Obligations (*Schuldrechtsreformkommission*) preferred, due to structural and practical reasons, the discharge of residual debts. The decision to implement the debt relief in the insolvency proceedings is based on a diligent and systematic consideration of debt relief by way of absolute limitation of actions.[21]

The limitation of actions is not a general enforcement. It follows an individualistic system, because every claim has its own statutory period of limitation with its own beginning and duration. Contrary to that, the debt relief proceedings combined with the aid of an absolute statute of limitations is not inherent in this system. Rather, it meets with compatible structures in insolvency law as a collective liability order.[22]

The legal consequence of the debt relief proceedings is not comparable with the discharge of residual debts. The discharge is valid for all claims of creditors, independent of their procedural participation. The concept of debt relief, however, only provides for the expiration of claims of creditors who have been named by the debtor and who have taken part in the proceedings. This proposal is to be refused. It does not prevent that a person could remain indebted after 8 years simply because he or she has forgotten to name certain creditors – an outcome which, in practise, occurs quite often. It is, however, to be adhered to the proposal to involve insolvency advice agencies and other suitable persons in the proceedings. Insolvency advice shall be the condition for debt relief, a condition that is verified by the agencies supporting the insolvency settlement.

---

[21] Wolfhard Kohte, *Forderungen und Anforderungen an ein vereinfachtes Restschuldbefreiungsverfahren* 1 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 9, 10 (2005).

[22] *See in extenso* Martin Ahrens, *Schuldbefreiung durch absolute Verjährungsfristen – 12 Antithesen* 1 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 1, 5 (2005).

Furthermore, the model of the Federal Ministry of Justice does not consider the procedural requirements of an offence with regard to the "honesty of the debtor". Only the honest debtor achieves the discharge of residual debts, section 1 InsO. Even the Bavarian State Ministry of Justice questions the legal institution of discharge, because in its opinion debtors abuse it. The ministry intends to expand the debtors' obligations and hence to increase the demands on honesty.[23] However, its new debt relief model does not provide effective structures to deal with these obligations. It is unconvincing to set up a wide range of obligations without a practicable and conscious monitoring system.

The applicable concept of the discharge was proven in practise. The case law, especially of the Federal High Court of Justice (*Bundesgerichtshof - BGH*),[24] has specified the material and procedural criteria of the refusal of discharge in accordance with the rule of law. Therefore, it is important to maintain these structures.

In principle, the "*Wustrauer Modell*" provides a persuasive solution capable of simplifying the structures of proceedings and thereby reducing costs. A separate concept of proceedings for debtors without remaining assets is necessary, and within the debt relief function it is most important. Moreover, the common insolvency proceedings with modifications regarding the outlined aims of reform are also necessary. These proceedings are dominated by the principle of creditor's equality,[25] because they takes place on the basis of remaining assets, which the administrator/trustee distribute to creditors.

With regard to the questions of costs it is, for the following reason, still too early to decide whether or not the deferment of costs should remain in force: presently, the reform process is not accompanied by a comprehensive evaluation of the new provisions. In particular, such an evaluation lacking as to the legal institution "deferment of costs." It is quite remarkable that no empirical studies are published, giving a representative survey of insolvency proceedings without remaining assets and repayment of deferred costs. Only a few regional data collections exist, none of which legitimate a change of system.[26]

---

[23] Bayerisches Staatsministerium der Justiz, *Überlegungen zu einer Reform der Verbraucherentschuldung* 22., 26; see further Wiedemann (note 12), 653.

[24] For example NEUE ZEITSCHRIFT INSOLVENZRECHT 389 (2003).

[25] *See* for the relationship of functions Dörte Busch, *Der Insolvenzverwalter und die Überwindung der Massearmut* 26 (2005).

[26] For a department of the insolvency court Krefeld: Irmgard Busch/Uwe Mäusezahl, *Restschuldbefreiungsverfahren – was kostet es wirklich?* 8 ZEITSCHRIFT FÜR VERBRAUCHER-UND

E. Outlook

Notwithstanding all these arguments, the Federation-States-Working Group adheres to the statute-of limitations-based model as published in the interim report[27]. The Working Group advocates specific debt relief proceedings for all individuals. Its essential tenets are as follows: the debtor shall be discharged from only those obligations he has named, under the condition of honesty and after 8 years. Execution is allowed; no trustee is involved; no determination of claims takes place and the deferment of costs is no longer foreseen.

In June 2005, the State Justice Minister Conference[28] noticed the interim report of the Federation-States-Working Group. It recommended the Federal Ministry of Justice to prepare a bill and the Federation-States-Working Group to continue to work on the basis of using the statute of limitation. In November 2005, the 82nd Conference of Ministers of Labour and Social Affairs (*Arbeits- und Sozialministerkonferenz)*[29] confirmed the necessity of reforming the consumer insolvency proceedings, especially the aspect of costs, and demanded a socially and economically acceptable solution. The results of the interim report of the Federation-States-Working Group cannot be the end of the reform discussion. The implementation of proceedings without trustees and the continuance of the exemption from execution will be re-examined.

At the moment, a specified model of debt relief proceedings proposed by the Federal Ministry of Justice is expected. The question, then, is to what extent the various insolvency-law-based models can and will influence the ministry's reform efforts.

PRIVATINSOLVENZRECHTT 398 (2005); Hugo Grote/Petra Müllers, *Rückflüsse an die Staatskasse bei der Kostenstundung in Insolvenz- und Restschuldbefreiungsverfahren*, 4 ZEITSCHRIFT FÜR DAS GESAMTE INSOLVENZRECHT 187 (2006).

[27] *Zwischenbericht zu einer Reform der Verbraucherentschuldung* (note 15).

[28] Available at http://www.justiz.nrw.de/JM/justizpolitik/jumiko/beschluesse/2005/fruehjahrskonferenz05/I_1.pdf.

[29] *Ergebnisprotokoll der 82. Konferenz der Ministerinnen und Minister, Senatorinnen und Senatoren für Arbeit und Soziales der Länder am 17./18. November 2005, Top 3, 5.6,* 1 ZEITSCHRIFT FÜR VERBRAUCHER-UND PRIVATINSOLVENZRECHTT 44 (2006); also available at http:/s/www.f-sb.de/inso/insoreform2004/sozialministerkonferenz11_2005.pdf.