20190130 EU contribution to questions on Social protection and social security

Information on the situation at European Union level, provided by the European Commission[[1]](#footnote-1)

*1. What are the legal provisions in your country that recognizes the right to social security*

*and social protection, including non-contributory and contributory old-age benefits? Do*

*they have a constitutional, legislative or executive foundation?*

In the European Union (EU) the design and management of social protection systems, including pensions, long-term- and health-care benefits, remains fundamentally a responsibility of its Member States. The European Commission supports the work of the Member States. This support includes establishing medium-term scenarios for the adequacy[[2]](#footnote-2) of old-age pensions (Pension Adequacy Report, or PAR) and the sustainability[[3]](#footnote-3) of ageing-related spending (pensions, health care and long-term care), including pensions and subsidies related to disability and dependency, which are often associated to age.

However, in some areas related to social protection, EU legislation, including anti-discrimination legislation, can apply. When applying any EU rules, EU Member States must respect the Charter of Fundamental Rights of the European Union, which also has a specific article (34) on Social security and social assistance[[4]](#footnote-4). Since 2017, the EU Member states also adhere to the 20 principles of the European Pillar of Social Rights; principles 14-18 concern directly the social protection of older people (see below). In addition, in relation to older persons with disabilities, the EU and all Member states are party to the UN Convention on the Rights of Persons with Disabilities, which also contains an article related to social protection. The EU social model is based on strong social protection systems, and the EU and its Member States strive to guarantee the sustainability of these systems and their adaptation to modern challenges such as an ageing population.

**Availability**

*2. What steps have been taken to guarantee universal coverage, ensuring that every older person has access to social security and social protection schemes including non- contributory, contributory and survivor old-age pensions, to ensure an adequate standard of living in older age?*

*3. What steps have been taken to ensure that every older person has access to social security and social protection schemes which guarantee them access to adequate and affordable health and care and support services for independent living in older age?*

The responsibility for matters of availability and access resides with the Member States. At the EU level, the European Pillar of Social Rights was jointly endorsed by the European Parliament, Council and Commission in 2017. The concrete initiatives to put the [20 principles](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en) into practice can **improve the social situation** of millions of Europeans significantly. Principles 14-18 of the Pillar concern directly the social protection of older people. The EU Member states are working towards implementing the principles via legislation and administrative reform. Measures to address older persons with disabilities are reflected in the European Disability Strategy 2010-2020 which is being evaluated. The (annual) Semester[[5]](#footnote-5) policy review rounds identify issues and areas where Member States need to take (priority) action.

The European Commission helps with EU-level initiatives. For example a “New Start to support work-life balance for parents and carers[[6]](#footnote-6)”, and, at the EPSCO Council of 6 December 2018, a political agreement was reached on a Council Recommendation on access to social protection for workers and the self-employed (<https://ec.europa.eu/social/main.jsp?langId=en&catId=&>). This helps Member States to address the challenges of the digitalised world of work poses for the social protection of non-standard workers and the self-employed. Most social protection systems in the EU remain geared towards the needs of people in full-time open-ended contracts with a single employer, although close to 40% of people in the EU labour market are in self-employment or have non-standard contracts. The non-binding Recommendation encourages national reforms which ensure that all workers get the support they need by:

- allowing non-standard workers and the self-employed to adhere to social security schemes on the basis of contributions (closing formal coverage gaps)

- allowing them to build up and take up adequate social benefits, as members of a scheme (adequate effective coverage) and facilitating the preservation and transfer of social security benefits between schemes

- increasing transparency regarding social security systems and rights.

The material scope of the Recommendation covers

(a) unemployment benefits;

(b) sickness and health care benefits;

(c) maternity and equivalent paternity benefits;

(d) invalidity benefits;

(e) old-age benefits;

(f) benefits in respect of accidents at work and occupational diseases

In 2017 the European Commission has made a Proposal for a Regulation of the European Parliament and of the Council on a pan-European Personal Pension Product (PEPP)[[7]](#footnote-7). It aims to encourage the development of personal pensions (that is, voluntary, individually funded pensions) in Europe, to support retirement saving and strengthen the European single market for capital by making more funds available for investment. Generally the proposal is considered a welcome extra option to support retirement savings and investment, also in a context of differing national pension systems and tax treatments. An agreement on the general approach was reached in June 2018 and the proposal is now in the phase of “trilogue” negotiations between the Council, the European parliament and the European Commission.

**Adequacy**

*4. What steps have been taken to ensure the levels of social security and social protection payments are adequate for older persons to have access to an adequate standard of living, including adequate access to health care and social assistance?*

Adequacy (in reference to old-age poverty levels, maintaining income levels after retirement, and for an adequate duration) is among the objectives of the European Pillar of Social Rights mentioned above. While the design of social protection systems, including measures defining its adequacy, remains a Member State competence, in the field of pensions, the European Commission supports the EU Member States by establishing common scenarios (c.f. the PAR1), monitoring reform efforts (e.g., the Semester[[8]](#footnote-8)) and specific initiatives, for instance developing strategies on supplementary pensions[[9]](#footnote-9) as means to improve adequacy.

**Accessibility**

*5. What steps have been taken to ensure older persons have adequate and accessible information on available social security and social protection schemes and how to claim their entitlements?*

The European Commission proposed legislation on accessibility addressing products and services as well as public sector websites and their content.

*6. The design and implementation of normative and political framework related to social security and social protection benefits included an effective and meaningful participation of older persons?*

The Recommendation on access to social protection encourages EU Member States to increase transparency regarding social security systems and rights. The relevant section reads as follows:

**Transparency**

Member States are recommended to ensure that the conditions and rules of all social protection schemes are transparent and that individuals have access to updated, comprehensive, accessible, user-friendly, and clearly understandable information free of charge about their individual entitlements and obligations.

Member States are recommended to simplify, where necessary, the administrative requirements of social protection schemes for workers, the self-employed and employers, notably micro-, small- and medium-sized enterprises.

In addition, in the field of pensions, the European Commission continues to support a project[[10]](#footnote-10) aiming at connecting the national online services for tracking pension rights in the EU Member States, to allow the increasing number of people who work(ed) in more than one EU country keep up-to-date with the progression in their pension contributions and accrued rights.

**Equality and non-discrimination**

*7. Which are the measures adopted to ensure equitable access by older persons to social security and social protection, paying special attention to groups in vulnerable situation?*

**EU** legislation already ensures the principle of equal treatment between various types of employment relationships, prohibits any direct or indirect discrimination based on, inter alia, age and disability in matters of employment and vocational training, ensures portability and preservation of rights in case of mobility between Member States and guarantees minimum requirements for the acquisition and preservation of supplementary pension rights across borders, as well as minimum requirements in terms of transparency of occupational schemes. As a practical example, the European Commission has carried out infringement procedures to make sure that women and men have the same pension rights in every EU country.

The Pension Adequacy Report also focusses on the Gender Pensions gap, monitoring adequacy for older women and aiming to reduce old-age poverty among women.

**Accountability**

*8. What mechanisms are in place to ensure social security and social protection schemes are effective and accountable?*

*9. What judicial and non-judicial mechanisms are in place for older persons to complain and seek redress for denial of their right to social security and social protection?*

The European Commission monitors social protection reforms and achievements via its European Semester[[11]](#footnote-11) exercise. It also fosters mutual learning and best practice dissemination to help EU Member States reform their social protection systems.

Among its recent initiatives, the Recommendation on access to social protection encourages EU Member States to allow effective protection for all people in the labour market (all workers, regardless of the type of employment relationship, and to the self-employed). This notably means allowing them to build and take up adequate social benefits as members of relevant social protection schemes (adequate effective coverage) and to facilitate the preservation and transfer of social security benefits between schemes to ensure protection in careers increasingly characterised by professional transitions. Also, social protection for the elderly is organised against the background of ageing populations in Europe. The European Commission supports the EU Member States by establishing scenarios of sustainability and adequacy, as indicated above.

As to the judicial and non-judicial mechanisms in place, Article 81 of Regulation (EC) No 883/2004 on the coordination of social security systems provides rules on the handling of claims and appeals in cross-border cases.[[12]](#footnote-12) Any other claim, declaration or appeal with regard to the application of the relevant legislation of a particular Member State may be submitted to a corresponding authority, institution or tribunal of that Member State in accordance with its national rules of procedure. If the litigation concerns (the interpretation of) EU law, the plaintiff may, after having used the national legal recourse procedures, submit the matter to the Court of Justice of the European Union.

1. Individual EU Member States give in their own contributions information on the situation and legislation at the level of their country. [↑](#footnote-ref-1)
2. <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8084&furtherPubs=yes> [↑](#footnote-ref-2)
3. <https://ec.europa.eu/info/publications/economy-finance/2018-ageing-report-economic-and-budgetary-projections-eu-member-states-2016-2070_en> [↑](#footnote-ref-3)
4. Article 34 Social security and social assistance

   1.   The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.

   2.   Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.

   3.   In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices. [↑](#footnote-ref-4)
5. <https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en> [↑](#footnote-ref-5)
6. <http://ec.europa.eu/social/main.jsp?catId=1311&langId=en> [↑](#footnote-ref-6)
7. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017PC0343> [↑](#footnote-ref-7)
8. <https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en> [↑](#footnote-ref-8)
9. <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3589&news=1> [↑](#footnote-ref-9)
10. <http://ttype.eu/> [↑](#footnote-ref-10)
11. <https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en> [↑](#footnote-ref-11)
12. Claims, declarations or appeals : Any claim, declaration or appeal which should have been submitted, in application of the legislation of one Member State, within a specified period to an authority, institution or tribunal of that Member State shall be admissible if it is submitted within the same period to a corresponding authority, institution or tribunal of another Member State. In such a case the authority, institution or tribunal receiving the claim, declaration or appeal shall forward it without delay to the competent authority, institution or tribunal of the former Member State either directly or through the competent authorities of the Member States concerned. The date on which such claims, declarations or appeals were submitted to the authority, institution or tribunal of the second Member State shall be considered as the date of their submission to the competent authority, institution or tribunal. [↑](#footnote-ref-12)