



Social Protection Reform Project
中国欧盟社会保护改革项目

1.2.2. - GENERAL PRINCIPLES

APPLICABLE TO

Component 1

EUROPEAN SOCIAL SECURITY SYSTEMS

Social security reforms are sometimes criticized because part of their contents seem to point to parameters or procedures that belong to another quarter of individual protection, that of private insurance handled through profit making companies where the individuals take precedence over the collective. While private supplementary insurance can play a significant role in overall protection of the individuals, notably those from the upper level categories, decision-makers considering reforming social protection systems should always be able to ascertain that proposals being put forward would keep the reformed system within the boundaries shaping the specificities of social protection – by contrast with individual protection. This Note therefore summarizes those social security principles generally commonly accepted in Europe that altogether characterize socially acceptable and efficient public social protection systems.

It may be considered that social security in Europe is organized around the following ten broad principles:

- One country, one system (unicity in protection)
- Continuity in protection (from cradle to coffin)
- Coexistence of basic and multi-tier protection (efficiency and equity)
- Universal coverage (protection also for the weakest and most vulnerable)
- Transparency (strict governance, monitoring and control)
- Democratic management (association of users to management through parliament or through unions)
- Affordability (secured sustainable financing)
- Adequacy (levels of benefits established according to identified needs and objectives)
- Rule of law (all interventions have to be based on a binding legal instrument)
- State responsibility (irrespective of organizational and institutional arrangements).

Each of these ten principles may in turn be declined into sub-categories, pointing to altogether 40 criteria or benchmarks characterizing the main features of European social security in terms of principles applied and core issues.

1. One country, one system

The principle of unicity in protection corresponds to the fact that social security should grant comprehensive protection to its affiliate. Unicity is notably achieved under European social security systems through the following provisions.

1.1 Unique social security number – which corresponds to the fact that a same insured person will be identified via the same number in whichever scheme to which he/she participates. In France the social security number is in fact designed in such a manner that, at birth declaration, the number is already fully composed – and will not change until the demise of the insured person.

1.2 Cross checking among schemes - one single form filled in by employer – this legal provision is not only intended at facilitating the work by enterprises. It also aims at avoiding the risk, through submission of multiple forms, that employers omit to declare their employees under one or the other scheme deemed to be less essential or too expensive.

1.3 Incorporation under one scheme implies incorporation under other schemes – meaning that, except when specifically provided for in the legislation, protection under one scheme against a risk implies that provisions are made, to ensure that protection be also granted (and paid for through contributions) against the other risks. Entitlement to benefits under one scheme entails accrual of rights under other schemes. Under such approach, civil servants would still contribute towards unemployment benefits, even though they are normally not at risk of becoming unemployed, retirees would enjoy health insurance protection, apprentices covered against occupational risks would also contribute to health insurance protection and accumulate already for their retirement.

1.4 Entitlement to benefits under one scheme entails accrual of rights under other schemes – This provision implies for example that unemployed persons continue contributing, during the period in receipt of the benefit, to be subject to health insurance protection, and to accumulate credits towards retirement.

2. Continuity in Protection

This principle of continuity in protection aims at ensuring that social security affiliates may not be at risk of losing access to protection whatever the circumstances of their life evolution.

2.1 Changing profession, changing scheme, vesting rights – Coverage is not interrupted by changes in the profession of insured persons, implying that their insurance coverage moves from one scheme to another one. For example, a civil servant leaving Government employment for the private sector would still keep his/her rights within the former scheme, and may benefit of a pension from both insurance careers when comes time of retirement – or, alternatively, through or without contributions' transfer, the seniority under one scheme may be recognized under the second one (compensation being calculated at the time of retirement in terms of additional pension rights recognized by the second scheme on the basis of insurance periods recognized by the first scheme)

2.2 Changing country, changing system, vesting rights, paying abroad – The European Union has established since 1972 the principle according to which periods of employment accomplished under one national scheme would remain valid when the worker changes country within the EU, whichever the total number of moves or of countries implied. At the end of his/her career, the worker having been employed in several member States may therefore request that his/her insurance records in the various countries be accumulated for checking whether the qualifying conditions are met, while the contribution by individual national schemes to covering the cost of the pension is prorated according to respective employment periods under the different schemes.

2.3 Extended to non-nationals (2003) – the former provisions, which initially applied only to nationals of EU countries moving within the EU was extended in 2003 to non-EU nationals moving within the EU (e.g. Turkish, North African, Africans from South of the Sahara, eastern European countries non EU member States ...). This provision supplemented previously existing bilateral agreements, which had the clear disadvantage of applying only to two countries at the same time, i.e. not taking into account insurance records under third party legislation.

2.4 Non-contributory periods if involuntarily not covered through contributions – All national pension schemes and other schemes where insurance length is critical for the evaluation of entitlements to benefits include provisions under which involuntarily non contributed periods are taken into account for the appreciation of length of qualifying insurance. These periods include for example military service, service of disability pension, periods of pregnancy and rearing of very young children, academic or occupational studies, unemployment, etc. In Italy, such provisions are called using the generic term of “citizenship periods”.

3. Coexistence of basic and multi-tier protection

Coexistence of basic and multi-tier protection aims at ensuring that schemes be available within the legal compulsory system that cater both at the basic needs of those even most vulnerable groups (social efficiency) and at the expectations of groups with higher income having paid higher contributions (social equity).

3.1 Basic protection as citizen's entitlement – Even in schemes where the basis for protection is contributions paid within specific occupational context, provisions are made to ensure that no resident is left without appropriate, minimum protection. This basic protection approach applies essentially to guaranteed income schemes, and access to medical care. Such approach was embodied already in ILO recommendation n.67 on Income Security, 1944 and in Council of Europe European Social Charter in 1961. 42 Council of Europe member states ratified the European Social Charter (1961 or enhanced revised 1996 version).

3.2 Secondary level protection compulsory, 3rd level optional – France introduced compulsory secondary level coverage as early as in 1972, with retroactive effect. Countries with only one level of compulsory protection for long term cash benefits are less and less, due also to the fact that first tier legal benefits have become less generous. The European Union adopted in 1998 a directive (98/49/EC) on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community – the corresponding instrument for basic protection (first tier) dates back from 1971.

3.3 Supplementary benefits may come from law or collective agreements at national, branch or enterprise level – Legal provisions are often improved upon in European social security via provisions negotiated between the social partners – for example, agreements related to long term unemployment benefits and access to early retirement for ageing unemployed persons are normally concluded at the branch level. In Denmark contributions to the supplementary pension scheme ATP are negotiated by enterprise – as is the case in France and in several other European countries.

3.4 Qualifying conditions to access secondary level linked to those for first level – In a multi-tier level architecture, such as is the common case throughout the European Union, the level of protection at the lower, more general level, influences conditions for accessing benefits at the higher level. For example, pension protection at level II may intervene for salary share above the ceiling for contribution purposes at level I. Conversely, not meeting the qualifying conditions for accessing level I benefits may be an obstacle to the intervention of level II protection – when basic qualifying conditions are tightened, and overall legal protection is affected, it is therefore through level III benefits (enhanced optional contributions) that those deficiencies are made good for.

4. Universal coverage

European social security systems have progressively achieved universal coverage, i.e. the protection of virtually all categories of the (active and non-active) population against all social risks, irrespective of their contributory capacities.

4.1 Convergence of non-contributory and contributory systems - Whereas European social security was traditionally divided among countries ensuring a universal but low coverage (such as the UK, Switzerland and Nordic countries) and those limiting legal protection to employed persons contributing to the schemes but allowing for higher levels of benefits (such as Germany or France), the distinction between the two types of systems progressively blurred – universal systems enabling compulsory occupational supplementary protection (through public or private schemes) while occupational schemes introduced devices ensuring livelihood guarantees to all their citizens (minimum income, removal of length in insurance conditions to qualify for minimum benefits).

4.2 Progressive equalization of qualifying conditions and benefits among schemes – To ensure equality in access to benefits for all residents in any given country, conditions for accessing benefits have been progressively equalized among national schemes, ensuring notably similarity in qualifying conditions for civil servants and for salaried employees. This equalization also makes mobility easier and vesting of individual rights a simple formality.

4.3 Coverage of nine contingencies, additional contingencies - Practically, all of the EU member States ensure broad protection – through social security or other means of intervention - against all of the eight contingencies listed in ILO Convention n.102 on Social security – minimum standards, 1952. Those nine basic contingencies are medical care, cash sickness benefits, unemployment benefits, old-age benefits, employment injury benefits, family benefits, invalidity benefits, survivors' benefits.

Progressively, other contingencies were included in the legal framework of a growing number of national social security systems, such as dependency allowance or guaranteed minimum income.

4.4 *Link between social assistance and social insurance* – ILO Recommendation 67 on Income security, 1944, established as a principle that “needs not covered by compulsory social insurance should be made by social assistance”. This implies that either social assistance ensures access to social security protection by those in need but not insured, or that social assistance takes over social security protection after exhaustion of entitlements under social security schemes. These different approaches are sometimes formally unified under one broad national social security system, like in Ireland (social welfare system). ILO Recommendation 202 on Social protection floors (2012) fine-tuned this approach.

5. Governance

European social security systems are closely watched upon by government authorities and the public in general which would not accept that their practice does not stick to the principles of good management (“governance”) which are commonly accepted throughout Europe as having to preside over the use of common resources.

5.1 *Monitor administrative costs* – Competition with the private sector and overall concern with proper use of what is generally speaking considered as public moneys has led to widespread benchmarking and monitoring of managerial fees in European social security institutions. Typical – or acceptable – fees would vary depending on individual circumstances of the funds, and be expressed differently depending on the risk covered. For example, PAYG pension schemes would express managerial fees as a percentage of benefits paid, health care schemes as a percentage of contributions assessed and funded schemes as a percentage of amounts invested – related also to the number of individual accounts handled, institutions collecting premiums in percentage of total contributions – account being taken of the number of enterprises assessed, etc. The ILO has conducted over decades (1949-1996) enquiries into the cost of social security that showed that efficient, computerized pension systems commonly reached a target of administrative costs of 3% of benefits paid. Such administrative costs include all elements required for the functioning of the scheme e.g. staff costs, equipment, maintenance, incidentals, rental, utilities, communication and banking fees.

5.2 *Internal and external controls* – Control over governance of social security schemes are typically conducted both internally – i.e. through administrative units benefiting from a high level of autonomy – and externally – via specialized auditing agencies, bodies instituted by the Government and ad hoc Parliamentary inspections. Internal audit is used as much for providing advice to managers on practices on which improvement may be sought as for identifying weaknesses or not frauds in management and managerial practices. Broad features of both internal and external controls may be specified by law.

5.3 *Computerization and public access* – Impressive progress made over recent years in computerization including the development of integrated and interconnected databases has enabled European social security systems to progressively implement direct interaction between their clients and the funds information systems. This direct access enhances the credibility of the funds’ operations, reduces the risk of errors, while the integration of databases facilitates controls through records cross-checking. Countries like Belgium or Portugal have expanded facilities offered by providing access through one single entry point to a variety of data and services pertaining to the whole range of public services, including social security.

5.4 *Government tutelage, Parliament supervision* – Even in cases where social security is managed by private entities – which may, or not be profit-making bodies¹ - experience has shown to European

¹ Non-profit making social security institutions include those bodies jointly managed by employers and workers’ representatives (such as in France, compulsory supplementary pension schemes or

authorities that a strict control organized by the Government was necessary. A typical example of close control over operations conducted by private bodies is to be found in the United Kingdom where private occupational or personal pension plans operate within a regulatory framework established by Parliament. Parliament supervision, for example through the yearly adoption of social security financing laws, is also part of the Governance context in all European social security systems.

6. Democratic Management

Democratic management, i.e. managerial practices that comply with the overall requirements of participation in decision making of affected individuals and institutions, and of transparency and justification in the decision making process, has become over the last few decades a high ranking priority for European social security schemes.

6.1 Contributions belong to contributing persons – It is commonly accepted that, when schemes are financed through contributions, those are to be considered as a deferred part of workers' salaries. Hence the idea that social security contributions, whichever their denomination (personal contributions, social security taxes, employers' contributions, workers' dues, etc.) cannot be appropriated by the Government or indeed any other authority to serve purposes not directly linked to workers' social security coverage. In many countries, so-called "employers' contributions" therefore appear on workers' payslips, to clearly show the overall social security contribution attached to a given remuneration. Some (mostly new) European Union member countries have abolished so called "employers' contribution" for specific risks (Croatia, old age) or adopted overall financing patterns where workers' contributions are higher than employers' contributions (The Netherlands, Poland, Slovenia).

6.2 Protected persons associated to management – The fact that – as mentioned above – social security contributions are considered as part of workers' salaries (deferred remuneration) combined with the principle of free use of the salary has been used in many European countries to justify that workers' representatives be part of the managerial boards of the funds, in substantial numbers. Management boards are most typically bipartite when established long ago (Germany, Belgium, France, etc.), and thus do not include representatives from the State as voting members. However, State representatives usually take part in Board sessions as representatives of tutelage authority and can make observations when they feel decisions made or proposed are illegal, or entail expenditure for the State. Boards established in new European member states from Eastern and Central Europe are however more frequently tripartite, i.e. including Government representatives as fully fledged members, this being attributable at the influence of the ILO tripartite structure, and at the absence of social dialogue culture between trade union and employers' organizations in countries where the former were established only very recently, the Government acting in that case as a go-between the two. In cases where social security is directly managed by a Government body, the association of protected persons to management is deemed to be ensured through Parliament control. When protection is ensured via private bodies, with right for insured persons to choose the institution to which they contribute, this freedom of choice is deemed to make association of protected persons less necessary – although it may remain obligatory pursuant to ILO and Council of Europe relevant instruments².

6.3 Beneficiaries may seat on governing bodies – While the representation of beneficiaries is commonly entrusted to representatives of the contributing insured persons in most schemes protecting against risks such as sickness, maternity or accident injury, this representation has sometimes deemed to be insufficient in the case of unemployment insurance and pension insurance schemes, where beneficiaries (namely unemployed persons and retirees) are not part to the

unemployment benefits scheme) or by trade union organizations (e.g. in Denmark, unemployment protection).

² Notably, Council of Europe European Code of Social Security, art.71 and ILO Social security (minimum standards) Convention, 1952 (n.102) art.72

categories currently financing the scheme. Participation of beneficiaries has therefore sometimes been adopted in Europe, and there are a few such examples in the field of pensions among most recent EU member States (Poland, Serbia, Slovakia ...)

6.4 Annual and other reports available to the public – Making information available accessible to the general public through websites has become a distinctive feature of social security institutions across Europe. Information first consists of annual reports and statistics, which can be accessed online from the public website of the institutions³. Other information than those contained in annual reports is also available from the institutional websites, including concerning data related to individual members (accessible only by the latter). When discussions are held in Parliament concerning social security matters, it is not infrequent that those debates be transmitted live on specialized legal TV channels, thus enhancing access to information by interested parties.

7. Affordability

Together with those related to social efficiency and equity, affordability considerations rank among the top preoccupations among European social security schemes. Social security should indeed be affordable not only for the economy as a whole, but also for individual contributors and insured persons.

7.1 Contributions should not be too high – The level of contributions required for financing the benefits is considered among European member States as a key element in establishing the cost of labour which in turn plays a very important role in determining the relative competitiveness of national economies or branches. Even when social security is mostly if not exclusively financed out of salary-based contributions, the State nonetheless generally intervenes or indeed decides upon applicable contribution rates – risks of financial imbalance being equally addressed through adjustment in benefit levels, formulae or qualifying conditions. Affordability is also to be looked after for individual contributors, and contribution levels may be reduced for certain categories which income is deemed too low, or which employment is to be promoted through decrease in labour costs. In such cases, the Government may compensate the loss incurred by social security institutions. In Germany, for example, the Government takes on board the cost of non-insurance components of the system – e.g. pension credits for studies, for rearing children or for unemployment periods. In the field of health insurance, the Government effects payments to the scheme on behalf of certain categories with limited resources in such countries as the Czech Republic, Estonia, or Romania.

7.2 Financing to be shared employers-employees While relevant international instruments stipulate that, where they exist, social security contributions should be shared between employers and workers in a manner that the latter pay not less than the former, some European countries have, taking argument from the broadening scope of coverage, chosen to supplement financing through contributions by earmarked taxes, affecting the individuals and not the employers. A typical example of this trend is to be found in France where two special taxes/contributions collected from all individuals were installed in the mid 1980s, namely the contribution to offset social debt RDS, and the general social contribution CSG, both being assessed on the basis of all income irrespective of the social status of the tax-payer, provided he/she be eligible for social security coverage – which corresponds to practically 100% of the resident population..

7.3 Government responsible to ensure that legal benefits are paid and financed Even when a compulsory social security scheme results from direct agreement between the social partners, it is up to the Government to ensure that, in cases of difficulties affecting sustainability, the same social partners take appropriate measures to remedy difficulties – otherwise the same Government would unilaterally take measures it deems appropriate that would become compulsory for the social

³ The International Social Security Association – ISSA – facilitates access to these websites through its own page, at <http://www.issa.int/aiss/About-ISSA/ISSA-Members>

partners (subject to endorsement by Parliament). Major pension reforms promoted by the Government in countries like Italy, Germany or France were explicitly endorsed by (at least some of the major) trade unions before being formally promulgated.

7.4 Actuarial studies to be conducted periodically and whenever changes considered Actuarial studies are an absolute prerequisite for proposing social security reforms or adjustments in European Union Member States. Most of the national schemes have their own actuarial department, and the Government Actuary's Office, where it exists like in the United Kingdom is a very powerful and respected institutions. The ILO and the ISSA have done a lot to disseminate the actuarial experience of European countries to other of its members, and the tradition of relying on actuarial studies scientifically conducted before proposing any alteration to or confirmation of existing provisions is gaining broader and broader acceptance.

8. Level of benefits

When deciding on the benefit levels to be achieved through their social security system, European countries bear in mind a few fundamental benchmarks such as, through social security, relieving want and preventing destitution, ensuring living conditions not markedly different from those enjoyed during active life, accessing under affordable conditions decent social services, including quality health care. Those are achieved through a variety of provisions.

8.1 Guaranteed replacement rate or absolute level As already mentioned – see above considerations on Coexistence of basic and multi-tier protection and Universal coverage – the distinction has progressively been blurred in Europe between those schemes ensuring legal protection in case of lost income via flat rate payments (anti-poverty) and those guaranteeing income replacement (keeping standards of living) and most European countries now combine the two approaches at least for pensions and, to a large extent, for unemployment benefits. In Spain, for example, Unemployment insurance benefits are based on both the individual calculation basis and the so-called Public Income Rate of Multiple Effects (Indicador Público de Renta de Efectos Múltiples, IPREM – slightly below the national minimum wage, taking into account the number of dependent children.

8.2 Rate to progress with economic development – Indexation of benefits in the course of payment, on the basis of price increases, or increases in wages or a combination of both is widely implemented in European countries as far as the legal, compulsory system is concerned. This progression in benefits according to economic development is however less frequent still when dealing with voluntary, private pension plans, since such indexing provisions are limited to a few countries like Germany, Ireland, Norway or the United Kingdom⁴.

8.3 Benefits in kind: related to their social goal In addition to cash benefits replacing lost income, European social security schemes commonly provide so-called “benefits in kind” that correspond to the access to social services or to the direct provision of essential goods or their equivalent in cash. Whereas personal coverage for guaranteed income or medical care has virtually been expanded to practically reach universality, benefits in kind have commonly been targeted to reach only those most in need, following the pattern established in so-called Beveridge schemes (universal, non occupation based protection) even within so-called Bismarck systems (contributory occupation-based schemes). The reason for this narrowed focus in granting access to cash benefits is essentially the overall limited resources affordable to finance the corresponding benefits which would make the extent of protection insufficient if those resources were to be spread among too many beneficiaries. Children benefits transformed into means-tested benefits are for example payable in Finland, France, Germany, Greece, Italy, Poland and Serbia – even though in some cases those benefits are financed out of contributions paid by or on behalf of all workers, eligible or not to benefits.

8.4 Payable throughout the contingency Whereas access to benefits may be subject to prescribed conditions concerning notably payment of contributions, those conditions usually cannot be opposed to insured persons that continue requiring continued support from benefits. For example, alternative

⁴ See SSPTW – Complementary Pensions, 2005

benefits are being paid to unemployed persons having exhausted their entitlements to contributory allowances if still in search of employment – or access to health services continues to be guaranteed to workers even after they stop contributing to health insurance funds for reasons independent of their own will – e.g. in case of unemployment, sickness, disability, receipt of old age pension, etc.

9. Rule of Law

The most striking difference in terms of rights and entitlements between social security and other mechanisms such as social welfare, social assistance or enterprise based schemes is the level at which legal prescriptions describe, monitor and shape the structure, contents and practical application of social protection provisions.

9.1 Clearly established and widely disseminated rights and entitlements – Social security has become throughout Europe a very complex area for legal prescriptions. Social security laws and regulations therefore include all required details for a smooth implementation of the system. As a matter of fact, national parliaments often conduct or sponsor comparative studies covering the situation in other European countries whenever they are to consider a possible reform in one area of social security. The French Senate (higher Chamber of Parliament) for example relied on comparative analysis of European legislation⁵ when reviewing Government draft legislation on social protection (1995), universal medical coverage and interconnection of administrative data (1999), benefits for adult disabled persons (2002), organisation of compensation and reemployment for the unemployed (2004), survivors' pensions and benefits for non-nationals (2006), leave in relation with child's birth (2009).

9.2 Justify decisions – As in other areas of administrative law, decisions made under social security legislation which impose sanctions or negate access to a benefit by an insured person have to be fully justified – i.e. they have to mention the legal provisions on which basis the decision was made, as well as the correlative evidence that the required conditions are met. It is generally considered within the European legal systems that decisions made without proper justification, when challenged in court, are declared void and of no value. For example, in Northern Ireland ⁶, “where an outcome decision is notified without a statement of reasons for the decision, the claimant has one month from the day following the date of notification to ask for the written statement”. The reason then has to be provided within 14 days following the request.

9.3 Right of appeal, special courts – The European code of social security makes provision (art.69) for appealing against decisions made by social security institutions. The Code makes explicit reference to special courts established to deal with complaints regarding social security decisions. It specifies that, if these complaints are considered by special courts where representatives of the insured persons are seating, it is not compulsory to provide for a right of appeal from such courts. However, this right of appeal is still organised in several countries. In Germany for example, the social security courts – Sozialgerichtsbarkeit - form a three tier system, with first-instance Social Security Courts (SG) and Land Social Security Courts (LSG) as the appeal instance and the Federal Social Security Court (BSG) for appeal on points of law. The individual panels (or chambers) of the SG have one career judge and two lay judges on the bench; the panels (or senates) of the LSG and the BSG have three career judges and two lay judges. No legal costs are payable for proceedings before the social security courts, and the parties are able to represent themselves before the SG and the LSG.

9.4 Advisers for insured persons and beneficiaries – The complexity of European social security law makes it practically impossible to master for the layperson, insured or beneficiary. Since the late 1920s, social workers, who act as advisers to insured persons and beneficiaries in their attempts to fully enjoy legally recognized social security rights, have gathered in a specialized international

⁵ <http://www.senat.fr/legcmp/tr25.html>

⁶ Northern Ireland, Department for Social development, Decision makers Guide, vol.1. § 1130 - http://www.dsdni.gov.uk/index/ssa/information_for_advisors/ssani_adviser_technical_guides/decision_makers_guide.htm

organization, the International Association of schools of social work. The European chapter of the Association EASSW ⁷ now covers 34 countries “recognizing that respect for the inalienable rights of the individual is the foundation of freedom, justice and peace. Members of EASSW are united in their obligation to the continued pursuit of social justice and social development.”

10 State Responsibility

Even in times when the private sector, be it or not profit making, takes a prominent role in the implementation of social security provisions, the final guarantor and driving force of the system remains the Government, at all possible levels of intervention.

10.1 Rules and regulations also for non government schemes

A significant part of European social security protection is granted through non State run and even non statutory schemes. For a long time Government authorities have deliberately refrained from interfering in the functioning of these schemes especially in countries where they were introduced as a part of an overall ideology promoting market forces and free enterprise. However events such as the bankruptcy of enterprise based pension schemes notably in the United Kingdom have prompted a different attitude, whereby Government authorities have applied a set of rules of compulsory nature, securing financial viability for private social security schemes.

10.2 Government to ensure continuity and performance of the system

International social security instruments widely recognized across Europe, such as the ILO Social security convention (minimum standards) and its Council of Europe avatar, the European Code of social security, clearly establish that (ECSS, art.71.2) the Government has to “accept general responsibility for the proper administration of the institutions and services concerned”. This general responsibility does not mean that the Government has for example to make good for any deficit provoked by extravagant management, but it implies that the said Government is morally and practically encouraged and empowered to take any remedial action deemed to be necessary to ensure a proper and sustainable social security management.

10.3 Government to ensure that consultation among social partners takes place

Even though, in cases where the Government is not directly handling social security, the social partners and especially the workers representatives have to be part of management (see ECSS, art.71.1), it may well happen that conflicting interests between notably workers and employers make it extremely difficult for them to agree on much needed social security reforms. In such cases, it is the legitimate role of Government to take initiative in organizing the social dialogue, and to the extent necessary to place the social partners in front of their obligation to take action. Examples of such proactive attitude of Governments can be found in a great number of countries, including Spain (pensions, July 2006 tripartite agreement) and Italy (pensions and flexicurity, July 2007).

10.4 Government to promote preventative measures in case of risk of system insolvency or unsatisfactory results

According to commonly accepted international or European instruments (see for example ECSS, art. 71.3) the Government “shall accept general responsibility for the due provision of the benefits provided in compliance with this Code, and shall take all measures required for this purpose; it shall ensure, where appropriate, that the necessary actuarial studies and calculations concerning financial equilibrium are made periodically and, in any event, prior to any change in benefits, the rate of insurance contributions, or the taxes allocated to covering the contingencies in question.” This duty of the Government to ensure that all precautions are taken to avoid to the extent possible risks of disruption in the financial sustainability of the system is enshrined in many countries in high level legal provisions – this is notably the case in France where the adoption of an yearly law on social security financing is a constitutional duty for Parliament or in the United Kingdom where the

⁷ <http://www.eassw.org>

Government actuary's Department, established in 1917, is a completely independent body compulsorily consulted and publicly reporting on any proposed significant social security change.

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