



SOCIAL PROTECTION IN EUROPE





S O C I A L
P R O T E C T I O N
I N E U R O P E



This publication has been produced
with support from the European Commission

INTRODUCTION

• S O C I A L P R O T E C T I O N I N E U R O P E •



This training guide on Social Protection in Europe was produced by the Education Department of the European Trade Union Institute (ETUI-REHS) in cooperation with the European Trade Union Confederation (ETUC) and with support from the European Commission.

An initial version was produced in 2005, but given the many changes that have taken place and recent training work involving experts and Euro-trainers, we felt that it made sense to publish a new edition. The most recent changes were made at the start of the year incorporating the changes that have taken place in the various fields concerned.

In order to address certain problems, face up to the challenges and mobilise in response to the planned reforms in various countries, the ETUC decided to ask the Education Department of the ETUI-REHS, which is working on its behalf in the area of European trade union training, for technical support in producing this trade union training guide on social protection.

The guide is intended first and foremost as a tool for activists. It is not, therefore, the 'umpteenth' document describing and comparing the various social protection systems that exist in the Europe of 25 Member States and 28, 29 or more in future.

Based on the real situations faced by women and men throughout the European Union it aims to facilitate:

- awareness of the approaches and thinking underlying European social protection systems;
- analysis of the structures and impact of the reforms that are being made;
- a better understanding of the strategic objectives of the European trade union movement and how these can be pursued at national level;
- the broadest possible mobilisation in support of those objectives and the fundamental values of the social protection systems, such as solidarity and social cohesion.

We would particularly like to thank the following people for their contribution to this guide:

- Josef NIEMIEC, ETUC Confederal Secretary, who gave political approval and support to the entire project;
- Henri LOURDELLE, ETUC advisor, who supervised and guided the production work, proofread the document and wrote the first section;
- the group of experts - Thierry AERTS (FGTB), Josef WÖSS (ÖGB), Carlos BRAVO (CCOO), Paul PALSTERMANN (CSC) and Lucka BÖHM (ZSSS) - who validated the publication;
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- Georges SCHNELL (ETUI-REHS) for his assistance with formatting and production of the documents.

Brussels, 25 March 2007

Jeff BRIDGFORD

Director of the Education Department of the ETUI-REHS

INTRODUCTION

• S O C I A L P R O T E C T I O N I N E U R O P E •

Issues around social protection



The various social protection systems are subject to increasingly conflicting pressure:

- European Union bodies, the Stability Pact and the Economic Policy Committee are imposing stringent budgetary regulations and social systems are often the first to bear the brunt of these;
- the Employment and Social Integration Committee and the Social Protection Committee are setting out ambitious objectives aiming to foster social inclusion and combat poverty. One of the methods of attaining these objectives is via the distribution mechanisms of social protection systems and effective social systems;
- the trade union organisations are trying, both at national and at European level, to protect social protection systems founded on the notions of solidarity and dignity;
- various governments are implementing liberal reforms under the pretext of meeting 'European standards'. These reforms are fundamentally challenging the principle of social cohesion.

These trends are likely to continue further in the years to come, essentially due to:

- generally speaking, globalisation favours the lowest common denominator in social terms as having the lowest cost in economic terms;
- enlargement: there are major disparities in income and social protection levels in the new and the 'old' EU Member States, which are compounded by risks (perhaps fictitious?) of 'social dumping' and blackmail (e.g. threats of relocation);
- the complex nature of social protection systems, which means that they are often left up to 'specialists' to deal with, even in the unions. As a result the issue is rarely treated as a top priority in trade union action programmes, except perhaps when systems are challenged head-on.

In order to address some of these problems, face up to the challenges and mobilise in response to the planned reforms in various countries, the ETUC decided to ask the Education Department of the ETUI-REHS, which is working on its behalf in the area of European trade union training, for technical support in producing this trade union training guide on social protection.

Josef NIEMIEC
Confederal Secretary

Our basic approach



By tackling several aspects relating to these problems, the aim will be to draw on experience and difficulties encountered in the field. The issues will be addressed using two different approaches.

An initial general approach:

Information sheets will be used to develop understanding of the basic arrangements governing policy on social protection, in particular at European level. It is important for activists, who receive vague information or are sometimes misinformed by governments or even employers, to have a sound understanding of how and where decisions are made at European level and of the actual powers held by the Commission, the Parliament and the Council in matters pertaining to social protection.

A second more specific approach:

Using training activities, the aim is to promote a better understanding of the challenges underlying the various aspects of social protection systems. The topics addressed will not constitute an exhaustive list but will be pertinent to current discussions and priorities. The training sheets may be used independently of each other as and when required.

So the approach taken in publishing and using this guide is neither 'academic' nor is its chief aim to inform the reader about the various systems in existence. In fact it is deliberately aimed at activists and so will:

- focus on a sound knowledge of the real situation along with its advantages and shortcomings;
- aim to demystify issues that are often treated in too technical a fashion. We shall be using an educational approach to explain the issues, so that the activists and workers affected by them can understand them;
- allow simple and clear demands to be formulated, forming a basis for mobilisation.

This is why we have set ourselves the ambitious objective of achieving a coherent, common approach. Taking the real situations at national level as our basis, the aim is to use these to develop a truly European approach. This is clearly a tall order, but it is the price we must pay for ensuring that our social protection systems work well and are based on solidarity!

Henri LOURDELLE
ETUC Advisor

SUMMARY

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SPECIFIC APPROACHES

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SOCIAL PROTECTION IN EUROPE
(folder revised in 2007)



**METHODOLOGICAL NOTE FOR
TRADE UNION TRAINERS**



METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

Presentation



This training guide was developed by a team of trainers and experts working together under the guidance of the ETUC. It draws on the training experience built up by course leaders and trainers on the topic of social protection.

The guide has three parts:

- a methodological note aimed at trainers, which draws on the experience built up by trainers at national and European level. You may find it useful for preparing training on these topics;
- an initial general approach in the form of information sheets explaining general operating methods with respect to social protection, in particular at European level;
- a second, more specific, approach in the form of training activities aimed at improving understanding of the issues and challenges underlying the various aspects of social protection systems.

The approach adopted focuses mainly on carrying out training activities at European level. Each member organisation and trainer will need to adapt the guide's contents to the reality of the individual organisation, its culture, target groups and objectives. Note too that the sheets will need to be adapted when implementing national training activities. In future we plan to incorporate your personal experiences into the guide, but to do this we will need you to send us details of these at the following address: gschnell@etui-rehs.org

It is important, also, that you see this guide as a set of components enabling you to develop your own activities. It is not a set programme but rather a series of activities that can be adjusted to meet the needs expressed by organisations or participants. The various possible activities are only intended as a guide and should not simply be used as they are.

All training is difficult!

It can never be guaranteed that a trainer's words will accurately reflect his or her intentions; or that participants will always understand exactly what they hear... or indeed remember (and apply) all that they have understood. To achieve this, we believe that the amount of training should be kept to an absolute minimum (this is where the basic sheets come in); that participants should be assigned an active role as much as possible (see our activity sheets for suggestions); and that they should be given the resources (electronic, paper, etc.) they need to retrieve those sections of the training activity that they found particularly useful once they are back home.

An experience to be shared!

Trade union training on a topic as dense and complex as social protection is never easy for trainers. With this guide, our aim has been to capitalise on the experience acquired over the years that we have been actively engaged with this issue, as well as the educational methods we have developed in the process of producing this guide. Close cooperation between experts, specialists and teachers has shown us new ways of working together that enable us to be more effective and better able to deliver high-quality training. We want to share this experience with you as an input for your work with European trade unionists and as a means of building up new knowledge and expertise amongst affiliates and their organisations.

Working with experts!

This guide could not have been produced without the close and ongoing support of the ETUC. Its constant supervision provided a guarantee for the team of trainers whilst encouraging them to take into account all the strategic aspects of the issue. It made it possible to select the particular topics to be included in the guide and to choose its basic structure. It was particularly useful for structuring the specific training packs and developing their content and components.

The joint work between trainers and experts in developing the topic sheets and the structure of the packs made it possible to interlink the various aspects of the issue and deal with them in greater detail. This makes it all the more important for trainers to have at least a basic knowledge of the topic being dealt with. Conversely, the collaboration also makes experts realise that training involves making choices.

Another aim of this cooperation is to institute an ongoing exchange of ideas between trainers and experts, in particular when developing activity sheets. The results of this exchange can then be used to gear the sheets as closely as possible to expected outcomes and actual objectives.

Alternative solutions!

Because they are working on topical issues, trainers have to prepare alternative scenarios, especially as they often do not know in advance which groups of participants will be involved and what the situations will be like in their organisations and countries. The team of trainers and experts can then provide additional activities geared more closely to the objectives being pursued as well as exercises or activities to aid understanding and appreciation of the problem at hand.

In this scenario, trainers' expertise and practice is critical to avoid overloading the programme and, above all, to make the right strategic choices for the amount of time available. The quality of an activity is not measured by the number of subjects dealt with but rather by the quality of the educational methods used with a view to increasing learners' understanding.

For example, using a pack such as the social protection pack, it may well be possible to work in a very general way on the topic of social protection but also to focus the different courses on more related topics using the specific sheets contained in the third part of the pack. The resulting programmes will therefore need to be reworked in line with the objectives being pursued.

Working with participants!

Training on a topic as dense and complex as social protection calls for preliminary work with participants in order to gear the course towards their different national situations. Interaction between people facing different realities can highlight similarities and differences between the various approaches adopted. By building their work around the analysis undertaken by participants, trainers can make the choices needed to progress towards the training objective.

Brussels, 26 February 2007
Georges SCHNELL
Education Officer

TRAINING ACTIVITIES CONCERNING CHAPTER 1

Public pension systems and financing the social system

Bearing in mind the information sheets and Chapter 2 of the Guide, we suggest the following activities:

Activities could be developed in the form of independent training courses or as part of a seminar on the health care system in Europe.

We suggest objectives, activities, resources and the time needed for each training activity.

- **COMPARATIVE ANALYSIS OF NATIONAL PENSION SYSTEMS**
- **CURRENT REFORMS: RATIONALE, DIFFICULTIES, RISKS?**
- **THE ROLE AND PLACE OF THE SOCIAL PARTNERS IN THE REFORM PROCESS**
- **ETUC PROPOSAL AND STRATEGY TO STRENGTHEN SOCIAL COHESION AND SOLIDARITY**

Title of the activity CHAPTER 1 : PUBLIC PENSION SYSTEMS AND FINANCING THE SOCIAL SYSTEML	
Training objectives of the activity	<ul style="list-style-type: none"> • To provide participants with accurate information on the different pension systems. • To discover the context, risks and consequences of pension reforms. • To assess the impact of these reforms. • To make participants more aware of the need to include the social partners in the pension reform process. • To familiarise participants with the ETUC's strategy on pension system reforms and promote involvement in the debate and process. • To participate in strengthening social cohesion and solidarity at European level.
Target group	Trade unionists involved with social protection and pension systems, education officers and trainers.
Evaluation	It is very important from the outset to think about developing instruments for evaluating the course.

1. Preparatory work by participants

These activities are based on a questionnaire sent to participants before the course enabling them to prepare the activity. Based on the Guide and on their knowledge of their own national systems they prepare for the group work on the particular activity. The questionnaire is sent out at the same time as the confirmation that they can attend the course.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Three-day training programme (18 hours)

Time		First day	Second day	Third day
08.00		Breakfast	Breakfast	Breakfast
09.00	/. 30'	Presentation 2 hours General aims of the activity Presentations: <ul style="list-style-type: none"> • Participants • Programme and working method Public pension systems and financing the social system 1 hour <ul style="list-style-type: none"> - Expert presentation - Discussion with the expert and Questions & Answers 	Analysis of reforms under way in the various countries represented 3 hours <ul style="list-style-type: none"> - Short presentation - Group work - Group reports - Discussion 	The role of the social partners in pension system reforms 3 hours <ul style="list-style-type: none"> - Short presentation - Group work - Group reports - Discussion
12.30			Lunch	Lunch
14.00	/. 30'	Description of national pension systems 3 hours <ul style="list-style-type: none"> - Short presentation - Group work - Group reports - Discussion 	The European Commission's approach – WHO? HOW? WITH WHOM? 3 hours <ul style="list-style-type: none"> - Presentation by an EU expert - Discussion and Q&A 	ETUC proposal and strategies to strengthen social cohesion and solidarity 3 hours <ul style="list-style-type: none"> - Presentation of the ETUC's health policy strategy - Questions on the presentation - Group work - Group reports - Discussion
17.30				
19.30		Dinner	Dinner	Dinner

2. Comparative analysis of national pension systems

Activity sheet n°1 COMPARATIVE ANALYSIS OF NATIONAL PENSION SYSTEMS	
Aims	<ul style="list-style-type: none"> • To provide participants with accurate information on the different pension systems. • To enable them to carry out a comparative analysis.
Tasks	Present the pension system in your country, in general terms, to the other members of your working group. Based on your answers to the course preparation questionnaire, draw up a list of similarities and differences between the national pension systems. <ul style="list-style-type: none"> ☛ Do not discuss the issue of reform at this stage. This is part of tomorrow's activity.
Methods	Nominate a rapporteur for your group to present a summary of your discussion and the list of similarities and differences.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Resources	You may use the preliminary questionnaire sent to you for the preparatory work, Chapter 1 of the Guide on Social Protection in Europe and the glossaries.
Time	1.5-2 hours for the group work

3. Current reforms: rationale, difficulties and risks

Activity sheet n°2 CURRENT REFORMS: RATIONALE, DIFFICULTIES, RISKS?	
Aims	<ul style="list-style-type: none"> • To discover the context, risks and consequences of pension reforms. • To assess the impact of these reforms.
Tasks	<p>In your working group, describe the reforms under way in your country. Include the following in your presentation:</p> <ul style="list-style-type: none"> • What is the purpose of and rationale behind the reforms? • How? • Risks and consequences for employees, pensioners, the system and social cohesion and solidarity.
Methods	Nominate a rapporteur for your group to present a summary of your discussion and the list of similarities and differences.
Resources	You may use the preliminary questionnaire sent to you for the preparatory work, Chapter 1 of the Guide on Social Protection in Europe and the glossaries.
Time	1.5-2 hours for the group work

4. Role and place of the social partners in the reform process

Activity sheet n°3 THE ROLE AND PLACE OF THE SOCIAL PARTNERS IN THE REFORM PROCESS	
Aims	<ul style="list-style-type: none"> • Allow participants to familiarise themselves with the European dimension of pension system reforms. • Make participants more aware of the need to include the social partners in the pension reform process.
Tasks	<p>Working in your group, answer the following questions:</p> <ol style="list-style-type: none"> 1. What are your reactions to the European Commission's approach? 2. Do you agree with the Commission's apparent priorities? Explain the reasons for your answer. 3. Were the trade unions involved in preparing the National Action Plan? If so, how? If not, why not?
Methods	Nominate a rapporteur for your group to present a summary of your discussion and the list of similarities and differences.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Resources	You may use the preliminary questionnaire sent to you for the preparatory work, Chapter 1 of the Guide on Social Protection in Europe and the glossaries. You may also use the expert's contributions.
Time	1.5-2 hours for the group work

5. ETUC proposal and strategies to strengthen social cohesion and solidarity

Activity sheet n°4 ETUC PROPOSAL AND STRATEGIES TO STRENGTHEN SOCIAL COHESION AND SOLIDARITY	
Aims	<ul style="list-style-type: none"> • To familiarise participants with the ETUC's strategy on pension system reforms and promote involvement in the debate and process. • To participate in strengthening social cohesion and solidarity at European level.
Tasks	<p>Working in your group, answer the following questions:</p> <ol style="list-style-type: none"> 1. How are the national organisations involved in preparing ETUC positions? What difficulties have you encountered in this process? What improvements should be made to secure greater involvement by national trade unions and/or professional organisations? 2. In your view, what factors should be taken into account in current or future reforms? 3. What practical proposals does your organisation have?
Methods	Nominate a rapporteur for your group to present a summary of your discussion and the list of similarities and differences.
Resources	You may use the preliminary questionnaire sent to you for the preparatory work, Chapter 1 of the Guide on Social Protection in Europe and the glossaries. You may also use the expert's contributions.
Time	1.5-2 hours for the group work

TRAINING ACTIVITIES LINKED TO CHAPTER 2

Professional (complementary) pension systems

Based on the Information Sheets and Chapter 2 of the Guide, we suggest the following training activities, developed in the Activity Sheets.

- **DUAL UNDERSTANDING OF PPS – CHALLENGES FACED BY THE EUROPEAN SOCIAL MODEL)**
- **ROLE OF THE UNIONS IN INVESTMENT STRATEGY FOR MANAGING PPS**

The activities could be developed as independent training sessions or in the form of a seminar on professional (complementary) pension schemes in Europe.

We suggest the following aims, activities, resources and time for these training activities.

Title of the activity CHAPTER 2: PROFESSIONAL (COMPLEMENTARY) PENSION SYSTEMS	
Training objectives of the activity	<ul style="list-style-type: none"> • Better understanding of the topic “Professional pensions” in the framework of European social protection. • To develop a consistent understanding of the subject at national and European level. • To establish a common understanding of the issue at EU level. • To increase the awareness of the Trade Unions on European Social Model and the role of TU in creating it.
Target group	Trade unionists, concerned on social insurance and pension issues, trainers, education officers.
Evaluation	It is very important from the outset to think about developing instruments for evaluating the course.

1. Preparatory work by participants

These activities are based on a questionnaire sent to participants before the course enabling them to prepare the activity. Based on the Guide and on their knowledge of their own national systems they prepare for the group work on the particular activity. The questionnaire is sent out at the same time as the confirmation that they can attend the course.

QUESTIONNAIRE: PROFESSIONAL PENSIONS (OR COMPLEMENTARY PENSIONS OR PENSION FUNDS)

Cover

- Do professional pension schemes exist?
- In all companies? How big are they?
- In all sectors? Or in some more than others?
- Where such schemes exist, do they cover all employees in the company? Or the sector? Or certain categories of staff? Which categories?
- Are these schemes accessible to part-time/fixed-term/temporary agency workers? If so, under what conditions?
- Are they defined-benefit or defined-contribution schemes?

Implementation procedures

- How are these professional pension schemes implemented? Through company or sectoral collective bargaining?
- Or are they 'awarded' by the company? Who are the principal beneficiaries?
- Or are they simply 'offered' by the company to the relevant employees?
- Where such schemes exist, is membership mandatory or optional?
- In what cases does the company pay towards contributions to these schemes? What proportion is paid by the company?

Proportion of the retired worker's income accounted for by these schemes

- Which accounts for the biggest part of the retired worker's income:
 - State pension or Social Security pension?
 - Or that paid by the professional pension schemes?
 - What proportion does each pension account for?
 - Why?

Extent of schemes amongst employees

- What proportion of employees is covered by these professional pension schemes?
- Does the coverage for men and women differ (within a single company? or a single sector?) Why?
- Are these schemes expanding?
- Why?

Professional pension management bodies

- Who is responsible for managing the professional pension schemes:
 - Insurance companies?
 - Banks?
 - Non-profit mutual insurance bodies?
 - Special bodies set up solely for this purpose?
 - State-controlled bodies (specify)?
- Is the management body chosen:
 - By the company alone? If so, why?
 - Or do the unions have a say too? If so, in what way?

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

We provide an example of how this activity can be transformed into a possible training programme. This is only provided as a “model” and can be re-worked by the trainers and adapted to the particular target group and to the organisation’s aim for this particular type of training activity.

Two-day training programme (12 hours)

Time		First day	Second day
08.00		Breakfast	Breakfast
09.00		Presentation 2 hours General aims of the activity Presentations: - Participants - Programme and working method Complementary or professional pension schemes 1 hour - Expert presentation - Discussion with the expert and Questions & Answers	The role of trade unions in the strategic management of complementary pension schemes in Europe 3 hours - Short presentation - Group work - Group reports - Discussion
./. 30'			
12.30		Lunch	Lunch
14.00	A R R I V A L	Dual comprehension of complementary (professional) pension schemes 3 hours - Short presentation - Group work - Group reports - Discussion	The strategic action plan from the viewpoint of ETUC positions 3 hours - Presentation of the ETUC health policy strategy - Questions on the presentation - Group work - Group reports - Discussion
./. 30'			
17.30			
19.30		Dinner	Dinner

2. Dual understanding of supplementary (professional) pension schemes

Activity sheet n°1 DUAL UNDERSTANDING OF PPS – CHALLENGES FACED BY THE EUROPEAN SOCIAL MODEL)	
Aims	<ul style="list-style-type: none"> • To provide participants with information about Professional Pension Schemes in the EU. • Better understanding of types of PPS in different EU countries. • To reflect on PPS in the light of defining the main challenges for PPS systems.
Tasks	<ul style="list-style-type: none"> • In your working group, discuss the advantages and disadvantages of Professional Pension Schemes in your countries. • Considering the similarities and differences between the national systems and results of the discussion, summarise the main challenges faced by PPS at EU level.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Methods	<ul style="list-style-type: none"> • Open up discussion in the group. • Presentation of group work in the plenary. • Plenary discussion with the expert.
Resources	You may use the preliminary questionnaire (part 2) sent to you for the preparatory work, Chapter 2 of the ETUI Guide on Social Protection in Europe and the glossaries.
Time	1h 30 min + 30 min for the group work and presentation.

3. Role of the unions in investment strategy for managing PPS

Activity sheet n°2 ROLE OF THE UNIONS IN INVESTMENT STRATEGY FOR MANAGING PPS	
Aims	<ul style="list-style-type: none"> • To provide participants with information about the TU position on Professional Pension Schemes in the EU. • To increase participants' awareness of the role of trade unions in managing PP Schemes. • To create a common trade union understanding of PPS in the light of defining the main challenges for PPS systems.
Tasks	<p>In your working group, share your national good practices in trade union involvement in PPS. Discuss where are the possible areas of union investments/influence and what are the consequences for the labour market in the light of sustainable development.</p> <p>Draw up a list of activities the unions could undertake to improve investment strategies in PPS at EU level.</p>
Methods	<ul style="list-style-type: none"> • Open up discussion in the group. • Presentation of group work in the plenary. • Plenary discussion with the expert.
Resources	You may use the preliminary questionnaire (part 2) sent to you for the preparatory work, Chapter 2 of the ETUI Guide on Social Protection in Europe, the glossaries, Directives 1998/49/EC and 2003/41/EC.
Time	Group work and presentation: 1h 30 min + 30 min

TRAINING ACTIVITIES LINKED TO CHAPTER 3

Health care system in Europe

Based on the information sheets and Chapter 3 of the Guide, we suggest the following 5 Activity Sheets:

- **THE OPEN METHOD OF COORDINATION**
- **AMBULATORY CARE SYSTEMS IN EUROPE**
- **THE HOSPITAL SYSTEM IN EUROPE**
- **THE NECESSARY BALANCE BETWEEN NEEDS AND PERFORMANCE OF THE HEALTH CARE SYSTEM IN EUROPE**
- **PRIVATISATION OF THE HEALTH CARE SYSTEM IN EUROPE?**

The activities could be developed in the form of independent training courses or as part of a seminar on the health care system in Europe.

We suggest the following aims, activities, resources and time for these training activities.

Title of the activity CHAPTER 3 : HEALTH CARE SYSTEM IN EUROPE	
Training objectives of the activity	<ul style="list-style-type: none"> • Awareness of the approaches and thinking underlying health care systems in Europe. • Analysis of the structures and impact of the reforms that are being carried out. • A better understanding of the strategic objectives of the European trade union movement and how these can be pursued at national level. • The broadest possible mobilisation in support of those objectives and the fundamental values of social protection systems, such as solidarity and social cohesion.
Target group	Education officers and trainers.
Evaluation	It is very important from the outset to think about developing instruments for evaluating the course.

1. Preparatory work by participants

These activities are based on a questionnaire sent to participants before the course enabling them to prepare the activity. Based on the Guide and on their knowledge of their own national systems they prepare for the group work on the particular activity. The questionnaire is sent out at the same time as the confirmation that they can attend the course.

QUESTIONNAIRE: HEALTH CARE

Coverage: procedures and scope

- How are people covered for the costs of health care?
- Based on where they live?
- Based on payment of a contribution? How much? What about those who cannot pay this contribution?

Access to care

- Do people have access to all types of health care, even the most expensive (scanner, MRI¹, etc.), or do they have to pay a supplement?
- Do patients have a free choice of doctor?
- Do they have free access to a specialist?
- If they do not have a free choice of doctor:
- How is the choice of doctor determined?
- Can they change doctor?
- When can they change doctor and what are the procedures involved?
- Is health care (doctors' consultations and/or appointments) free for patients?
- If so, on what conditions?
- If not, what is the procedure? Are they required to pay a contribution? How much?
- Is medication free of charge? On what conditions?

Private medical care

- Does a private medical system exist?
- If so:
 - Where? In large towns and cities? More widespread?
 - How large is it (as a percentage of the total number of doctors)?
 - Is the number of private doctors increasing?
 - How are visits to private doctors paid for?
 - How are the drugs and additional care prescribed by private doctors paid for?

Quality of health care systems

- Are people happy with the health care system?
- Are there:
 - Enough doctors? How many per 1,000 inhabitants?
 - How many specialists (per 1,000 people)?
 - Dentists (per 1,000 people)?
 - Nurses (per 1,000 people)?
 - Pharmacies (per 1,000 people)?
 - Radiologists and/or radiology clinics (per 1,000 people)?
 - Are these clinics and the equipment used modern or outdated? Are they efficient? Are there enough of them?
 - How are health care personnel/surgeries/pharmacies, etc. distributed around the country?

Relations between health professionals and the authorities

- How are the relations between health professionals and the authorities (government, health insurance office, etc.) regulated or organised?

1/ Magnetic Resonance Imaging

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

We provide an example of how this activity can be transformed into a possible training programme (2 or 4 days). This is only provided as a “model” and can be re-worked by the trainers and adapted to the particular target group and to the organisation’s aim for this particular type of training activity.

Four-day training programme (22.5 hours)

Heure		First day	Second day	Third day	Fourth day
08.00		Breakfast	Breakfast	Breakfast	Breakfast
09.00	/. 30'	Presentation 2 hours General aims of the activity Presentations: - Participants - Programme and working method Open Method of Coordination 2.5 hours - Expert presentation - Discussion with the expert and Questions & Answers	Ambulatory care systems in Europe (contd.) - Group reports - Discussion The hospital system in Europe 2.5 hours - Expert presentation - Discussion with the expert and Questions & Answers	The necessary balance between needs and performance of the health care system in Europe (contd.) - Group reports - Discussion Privatisation of health care systems in Europe 3 hours - Short presentation - Group work	Strategic action plan from the viewpoint of ETUC positions (contd.) - Group work - Group reports - Discussion
12.30		Lunch	Lunch	Lunch	Lunch
14.00	/. 30' A R R I V A L	Open Method of Coordination (contd.) Ambulatory care systems in Europe 3 hours - Short presentation - Group work	The hospital system in Europe (contd.) The necessary balance between needs and performance of the health care system in Europe 3 hours - Short presentation - Group work	Privatisation of health care systems in Europe (contd.) - Group reports - Discussion Strategic action plan from the viewpoint of ETUC positions 4.5 hours - Presentation of the ETUC health policy strategy - Questions on the presentation	Evaluation of the activity 1.5 hours Participants depart
17.30					
19.30		Dinner	Dinner	Cultural dinner	Dinner

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Two-day training programme (12 hours)

Time		First day	Second day
08.00		Breakfast	Breakfast
09.00		Presentation 2 hours General aims of the activity Presentations: - Participants - Programme and working method Comparative analysis of health care systems 3 hours - Short presentation - Group work	Current reforms: rationale, difficulties and risks 3 hours - Short presentation - Group work - Group reports - Discussion
./. 30'			
12.30		Lunch	Lunch
14.00	A R R I V A L	Comparative analysis of health care systems - Group reports - Discussion The Open Method of Coordination Expert: Henri LOURDELLE (ETUC) 1 hour	The strategic action plan from the viewpoint of ETUC positions 3 hours - Presentation of the ETUC health policy strategy - Questions on the presentation - Group work - Group reports - Discussion
./. 30'			
17.30			
19.30		Dinner	Dinner

2. The Open Method of Coordination (OMC)

Input

Europe's role in this area is limited to regulations on social security establishing which country provides social protection for an individual travelling in the EU. The majority of Member States do not wish to allow the European Union to interfere in social protection matters, but more coordination - convergent measures toward common objectives - was needed. For this reason, an open method of coordination was started.

What is the OMC?

A METHOD – a way of working together. It is OPEN – it does not impose anything and respects the nature, competences and practices of the Member State. It is also “open” – involving all the stakeholders (the social partners, civil society, etc.). It applies the approach of COORDINATION.

The OMC is therefore intended to be a flexible method of governance that supplements the existing Community method and other procedures based on the Treaty, such as the broad economic policy guidelines (BEPGs) and the European Employment Strategy (EES), which remain key instruments of the Community.

The OMC is used in three areas of social protection:

- social inclusion;
- pensions;
- health care and long-term care.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

The European Trade Union Confederation has expressed its support for this method. Admittedly, this position is a minimalist compromise between the positions of those who would like to see Europe play a more active role in social issues and those who are wary of such a role.

Health care and long-term care OMC - three major objectives:

- accessibility of care for all, based on fairness and solidarity;
- high-quality health care for the population which keeps up with medical advances and the emerging needs associated with ageing and is based on an assessment of the health benefits of such care;
- long-term sustainability of this care and aiming to make the system as efficient as possible.

These objectives were broken down into several sub-objectives and should lead to an initial series of development and reform strategies for health care and long-term care in the period 2006-2009.

For more detailed information see information sheet 11.

Activity sheet n°1 THE OPEN METHOD OF COORDINATION (OMC)	
Aims	<ul style="list-style-type: none"> • To provide participants with accurate information about OMC. • To give to the participants an opportunity to discuss OMC. • To gain a better picture of the reforms undertaken or to be undertaken and what results have been achieved in qualitative terms.
Tasks	Presentation by an expert. Questions and answers.
Methods	We suggest holding a training session: <ul style="list-style-type: none"> • With the support of an expert presentation on OMC; • Followed by a debate and; • Questions & Answers.
Resources	<ul style="list-style-type: none"> • Expert • Information Sheet 11 • Point 4 of Chapter 3 • PPT presentation/slides • Participants' experience
Time	2-3 hours

3. Ambulatory care systems in Europe

Input

In general, we can identify two types of health care system at European level:

- national health care services;
- health insurance services.

For example:

1. In the Bismarck model (or the social insurance system) of health care, the basic principle of social insurance is that the insured person contributes according to his/her means and receives according to his/her needs. This differentiates this type of insurance from normal commercial insurance.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

2. In the Beveridge model, the right to social security is dependent on residence and not on employment (flat rate contributions, but with health care and family benefits funded out of taxation). This means that the entire population is covered (universal cover).

For more detailed information see information Sheet 4 and Part 1 of Chapter 3.

Activity sheet n°2 AMBULATORY CARE SYSTEMS IN EUROPE	
Aims	<ul style="list-style-type: none"> • To provide participants with accurate information about the various health care systems in Europe. • To enable participants to carry out a comparative analysis of: the situation of the system; accessibility/discrimination; conditions; problems.
Tasks	<p>In your working group, each participant must:</p> <ul style="list-style-type: none"> • give a general outline of the health care system of his/her country to the other members of the group; • then, draw up a list of similarities and differences between the health care systems.
Methods	<p>We suggest holding a training session:</p> <ul style="list-style-type: none"> • very short presentation on the subject of health care systems in Europe; • followed by working groups and; • report back and Q&A; • It is important to draw up an activity sheet for the working groups presenting the aims of the activity, tasks, methods, resources, time allocated.
Resources	<ul style="list-style-type: none"> • Information Sheet 4 • Point 1.2 of Chapter 3 • PPT presentation • Participants' experience
Time	2-3 hours

4. The hospital system in Europe

Input

A study commissioned by the Parliament in November 1998 revealed that the **quantitative data** (regarding nursing staff, hospitals and so forth) were basically fairly similar in different Member States.

The number of doctors, pharmacists, nurses and so on is considered to be more or less adequate. The problem is how these health professionals are distributed around the country: there is a concentration in the towns and certain regions and a complete lack in other areas.

The **qualitative aspect** of the systems is another matter: the basic message is the same though the problems differ.

Hospitals in the new Member States are often run down, poorly equipped and badly located, and radiologists work with equipment that is not simply outdated but is also dangerous for themselves and their patients. In principle, hospitalisation is provided free of charge for people with insurance or those belonging to a health insurance scheme. Medication prescribed and dispensed as part of hospital treatment is also free of charge.

PEDAGOGICAL NOTES FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

The recommendation of 27 July 1992 (Recommendation 92/442/EEC) concerns the convergence of social protection objectives and policies. It aims promote access to health care systems which exist in the territory of the Member States regardless of people's' resources.

A key player in decision-making on social security, particularly on health, is the European Court of Justice. The Court considered that medical care, irrespective of whether it was provided in a hospital environment or outside such an environment, was a 'service' within the meaning of the Treaty, regardless of the way in which the Member States organise and finance their social security systems.

The requirement of an authorisation for the reimbursement of medical costs incurred in another Member State was unfounded since it is an obstacle to the free provision of services.

As regards hospital services, the Court indicated that in view of the necessary planning in order to ensure sufficient and permanent access to a balanced range of high quality hospital treatment, as well as to control costs and prevent any wastage of financial, technical and human resources, the requirement for authorisation was justified but that grounds for any refusal must be given.

In all cases, the reimbursement of incurred medical costs is limited to the cover guaranteed by the health insurance scheme in the Member State where the patient is insured.

For more detailed information see information sheets 5 and 7 and Part 2 of Chapter 3.

Activity sheet n°3 THE HOSPITAL SYSTEM IN EUROPE	
Aims	<ul style="list-style-type: none"> • To provide participants with accurate information about the hospital system. • To enable participants to hold a discussion on the hospital system: the situation of the system - human and technical capacities; accessibility; alternatives.
Tasks	<p>Presentation by an expert. Questions and answers.</p>
Methods	<p>We suggest holding a training session:</p> <ul style="list-style-type: none"> • with the support of an expert presentation on the subject 'the hospital system'; • followed by a debate and; • Q&A.
Resources	<ul style="list-style-type: none"> • Expert • Information Sheets 5 and 7 • Points 2 and 3 of Chapter 3 • PPT presentation/slides • Participants' experience
Time	2-3 hours

5. The necessary balance - needs/performance of the health care system in Europe

Input

Health care costs are rising more quickly than economic activity in general, not to mention the elements of this activity, in particular wages, from which the resources for public financing of health care are deducted.

Health is a risk that is spread very unequally in populations. Making individuals bear the burden of this risk would be unfair. What is more, guaranteeing high quality care serves the general interest, including the economy.

The entire health sector remains a labour intensive one. Even though treatment techniques are becoming more efficient and the length of time patients spend in hospital is being reduced, it should not be expected that this sector will experience the productivity gains seen in the agricultural, industrial or financial services sectors, for example. If health care professionals are to be paid decent wages, treatment costs will very quickly exceed the resources available to the vast majority of individuals.

Without public financing, it is therefore not possible to guarantee the level of care currently available to the whole population.

There are two main trends relating to the reform of the system.

The first relates to the desire of the public authorities to rationalise funds, basically by trying to achieve a better distribution of existing staff and installations.

If the governments intend to make any progress in this direction, they will undoubtedly have to:

- develop better dialogue with the social partners, the users and the health professionals before any rationalisation measures take place;
- act with public health and quality in mind instead of restricting themselves to an approach purely governed by administration and accounts;
- conduct their actions transparently both as regards the desired objectives and the means for achieving them.

The second trend relates to the privatisation of health care.

Whilst the ETUC does not deny the importance of healthy and/or balanced finances, the approach should not pursue that sole objective.

In other words, the ETUC maintains that the problems linked to the construction of a social Europe are not primarily economic issues with social implications but social issues with economic implications. And the ETUC insists that the two sides of this equation should never be inverted.

For more detailed information see information sheets 5 and 9, Chapter 3.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Activity sheet n°4 THE NECESSARY BALANCE – NEEDS / PERFORMANCE OF THE HEALTH CARE SYSTEM IN EUROPE	
Aims	<ul style="list-style-type: none"> • To discover the context, risks and consequences of the reforms of health care systems in Europe. • To assess the impact of the reforms.
Tasks	<ul style="list-style-type: none"> • In the working group, each participant must describe the reforms underway in his/her country to the other members of the group, taking into account the following considerations: Why are the reforms needed and what is the logic? How? • Then, draw up a list of risks and consequences, in particular in terms of social cohesion and solidarity.
Methods	<p>We suggest holding a training session:</p> <ul style="list-style-type: none"> • A very short presentation on the subject; • Followed by working groups and • Report back and Q&A. <p>It is important to draw up an activity sheet for the working groups, presenting the aims of the activity, tasks, methods, resources, time allocated.</p>
Resources	<ul style="list-style-type: none"> • Information Sheets 5 and 9 • Chapter 3 • PPT presentation • Participants' experience
Time	2-3 hours

6. Privatisation of the health care system in Europe?

Input

The second trend in the reform of the system relates to the privatisation of health care. The privatisation of health care systems has a dual objective: to increase the responsibility of users and practitioners, and supposedly to achieve better economic performance, an objective which remains to be proven.

Privatisation, regardless of the form it takes, does not fundamentally question the founding principles of the systems. If we believe that health is a universal right, it cannot be subject to the laws of the market which, by their very nature and as we know from experience, lead to the selection of risks and to exclusion.

However, health-related matters cannot be reduced to a purely economic debate: this debate must take place within the wider debate on health policy that the State and the social partners want to foster in the country.

In any case, it is important, in terms of both how the health care system is financed and how it is organised, that public authorities take measures guaranteeing universal access to the system.

It is possible to show that privatising everything, as in the United States, leaves a significant proportion of the population without insurance, or without adequate insurance, despite the prohibitive cost (almost double the global cost for health care in countries that have a 'national health service', and an extra cost of more than 50% in comparison to countries that cover health care by means of social security insurance systems).

For more detailed information see information sheet 5, Chapter 3.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Activity sheet n°5 PRIVATISATION OF HEALTH CARE SYSTEMS IN EUROPE	
Aims	<ul style="list-style-type: none"> • To discover the context, risks and consequences of the privatisation of health care systems in Europe. • To assess the impact of privatisation: complementarities or alternatives.
Tasks	<ul style="list-style-type: none"> • In the working group, each participant must describe the privatisation underway in his/her country to the other members of the group, bearing in mind: Why is privatisation needed and what is the logic? Is it expanding? Why? How? • Then, draw up a list of risks and consequences, in particular in terms of social cohesion and solidarity. • Then, discuss the trade union reaction to privatisation.
Methods	<p>We suggest holding a training session:</p> <ul style="list-style-type: none"> • a very short presentation on the subject; • followed by working groups and • report back and debate. <p>It is important to draw up an activity sheet for the working groups, presenting the aims of the activity, tasks, methods, resources, time allocated.</p>
Resources	<ul style="list-style-type: none"> • Information Sheet 5 • Points 3 and 5 of Chapter 3 • PPT presentation • Participants' experience
Time	2-3 hours

TRAINING ACTIVITIES LINKED TO CHAPTER 4

Employment and unemployment

Based on the information sheets and Chapter 4 of the Guide, we would suggest the following 3 activities, presented in the form of activity sheets:

- **FULL EMPLOYMENT, QUALITY AND PRODUCTIVITY AT WORK AND SOCIAL COHESION AS KEY OBJECTIVES IN THE EUROPEAN SOCIAL MODEL**
- **COMPARATIVE ANALYSIS OF EMPLOYMENT AND UNEMPLOYMENT / LISBON STRATEGY**
- **ROLE OF TRADE UNIONS IN LABOUR MARKET REFORM**

The activities could be developed in the form of independent training sessions or as part of a seminar on employment and unemployment in Europe.

We suggest aims, activities, resources and the time needed for these training activities.

Title of the activity CHAPTER 4: EMPLOYMENT AND UNEMPLOYMENT	
Training objectives of the sequence	<ul style="list-style-type: none"> • To provide participants with information about the key objectives in the European social model: full employment, quality and productivity at work and social cohesion. • To enable participants to make a comparative analysis of their systems and the social partners' participation in implementing the EU's Lisbon Strategy. • To create a common trade union understanding of reform options in the labour market.
Target group	Education officers and trainers.
Evaluation	It is very important from the outset to think about developing instruments for evaluating the course.

1. Preparatory work by participants

These activities are based on a questionnaire sent to participants before the course enabling them to prepare the activity. Based on the Guide and on their knowledge of their own national systems, they prepare for the group work on the particular activity. The questionnaire is sent out at the same time as the confirmation that they can attend the course.

We provide an example of how this activity can be transformed into a possible training programme. This is only provided as a "model" and can be re-worked by the trainers and adapted to the particular target group and to the organisation's aim for this particular type of training activity.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Two-and-a-half day training programme (15 hours)

Time		First day	Second day	Third day
08.00		Breakfast	Breakfast	Breakfast
09.00		Presentation 2 hours General aims of the activity Presentations: - Participants - Programme and working method Employment and unemployment in Europe: situation and statistics 1 hour - Expert presentation - Discussion with the expert and Questions & Answers	New forms of work: job security and flexibility. Challenges? Risks? 3 hours - Short presentation - Group work - Group reports - Discussion	The strategic action plan from the viewpoint of ETUC positions 3 hours - Presentation of the ETUC health policy strategy - Questions on the presentation - Group work - Group reports - Discussion
./. 30'				
12.30		Lunch		Lunch
14.00		Full employment, quality & productivity at work and social cohesion as key objectives in the European social model 3 hours - Short presentation - Group work - Group reports - Discussion	Role of trade unions in labour market reform 3 hours - Short presentation - Group work - Group reports - Discussion	
./. 30'	A R R I V A L			
17.30				
19.30		Dinner	Dinner	Dinner

2. Full employment, quality and productivity at work and social cohesion as key objectives in the European social model

Input

In the European social model full employment, quality and productivity at work and social cohesion are key objectives seen as being complementary and mutually supportive.

Full employment is addressed as one of the Union's objectives in the new EU Constitution. Unemployment insurance aimed at providing income security during periods of unemployment is one of the key elements of the European social model.

Social partner involvement in employment policy is another key objective of the European social model.

For more detailed information see information sheets 1, 2, 3 and chapter 4 of the Guide.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Activity sheet n°1 FULL EMPLOYMENT, QUALITY AND PRODUCTIVITY AT WORK AND SOCIAL COHESION AS KEY OBJECTIVES IN THE EUROPEAN SOCIAL MODEL	
Aims	<ul style="list-style-type: none"> • To provide participants with information about the key objectives of the European social model: full employment, quality and productivity at work and social cohesion. • To enable them to present the national understanding of the topic and discuss a common awareness.
Tasks	<ul style="list-style-type: none"> • In your working group you will be asked to present national social protection systems regarding employment policy to the other members of your group. • Considering the similarities and differences between the national systems and the results of the discussion, summarise the main challenges faced by the European social model.
Methods	<ul style="list-style-type: none"> • Open discussion in the group & summarising. • Presentation of the group work in the plenary.
Resources	<ul style="list-style-type: none"> • Info sheets 1, 2, 3 • Chapter 4 of the Guide • Personal experience
Time	1h 30 min

3. Comparative analysis of employment and unemployment / Lisbon Strategy

Input

In the European countries employment is still among the main challenges due to:

- increase in unemployment, above all long-term unemployment;
- youth unemployment rates show the most alarming figures;
- unemployment rates by gender show higher rates among women.

Unemployed people need income protection and help for (re)integration in the labour market, combating discrimination and exclusion. Income protection rules for the unemployed vary a lot in different Member States.

As employment was established as an integral part of the Lisbon Strategy, Member States need to jointly strengthen employment policy and modernise social policy systems, and to encourage the social partners to actively contribute to the formulation and implementation of these policies. ETUC is calling for greater involvement of the social partners (employers and trade unions) at all levels - especially national - in implementing the EU's Lisbon Strategy for growth and jobs.

For more detailed information see information sheets 1, 2, 11 and Chapter 4 of the Guide.

PEDAGOGICAL NOTES FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Activity sheet n°2 COMPARATIVE ANALYSIS OF EMPLOYMENT AND UNEMPLOYMENT / LISBON STRATEGY	
Aims	<ul style="list-style-type: none"> • To provide participants with information about employment and unemployment in different countries. • To enable participants to make a comparative analysis of their systems and the social partners' participation in implementing the EU's Lisbon Strategy.
Tasks	<ul style="list-style-type: none"> • In your working group, give a general presentation of your country's employment and unemployment situation. • Draw up a list of similarities and differences. • Discuss the social partners' involvement in employment policy and in implementing the EU's Lisbon Strategy for growth and jobs.
Methods	<ul style="list-style-type: none"> • Open up a discussion in the group & summarise. • Presentation of the group work in the plenary.
Resources	<ul style="list-style-type: none"> • Info sheets 2, 11 • Chapter 4 of the Guide • Personal experience
Time	1h 30 min

4. Role of trade unions in labour market reform

Input

Different approaches are used in labour market reform within the European Union:

- "passive" approach;
- "active" approach;
 - "active" approach based on the principles of the European social model;
 - "active" approach based on neo-liberal ideas.
- hard-core neo-liberal approach;
- EU mainstream approach.

The basic challenge for trade unions is to ensure that the reforms do not result in new social fractures or create new and substantial social inequalities. Fighting unemployment is one of the key concerns of trade union policy. (ETUC Executive Committee 1/12/2004: "More and better jobs by putting social Europe at the heart of the Lisbon strategy").

Massive investment is required in labour market institutions (investment that can save a lot of money especially from a mid-term and long-term perspective). It must be recognised that those who are forced out of the labour market against their will are entitled to full social protection. The main task is to offer affordable opportunities, also for low-skilled and unskilled workers. The implementation of lifelong learning is one of the pre-conditions to achieve higher employment rates among older people and to adapt our societies to the ageing of the workforce.

For more detailed information see information sheets 4, 5, 8, 11, 12, 13 and Chapter 4 of the Guide.

METHODOLOGICAL NOTE FOR TRADE UNION TRAINERS

• S O C I A L P R O T E C T I O N I N E U R O P E •

Activity sheet n°3 ROLE OF TRADE UNIONS IN LABOUR MARKET REFORM	
Aims	<ul style="list-style-type: none">• To provide participants with information about labour market reform options in Europe.• To create a common trade union understanding of reform options in the labour market.
Tasks	<ul style="list-style-type: none">• In your working group, present your national trade union approach to labour market reform.• Discuss the possible areas of trade union influence in fighting unemployment.• Draw up a list of possible trade union activities to improve labour market reform in Europe.
Methods	<ul style="list-style-type: none">• Open up a discussion in the group & summarise.• Presentation of the group work in the plenary.
Resources	<ul style="list-style-type: none">• Info sheets 4, 5, 8, 11, 12, 13• Chapter 4 of the Guide• Personal experience
Time	1h 30 min



SOCIAL PROTECTION IN EUROPE

(folder revised in 2007)

SOCIAL PROTECTION ON A EUROPEAN SCALE

- Sheet 1:** The role of social policy and social protection in the construction of the European Union
- Sheet 2:** The European Union Treaties. From the Treaty of Rome to the Treaties of Amsterdam and Nice: the European social dimension and economic and social cohesion
- Sheet 3:** The Constitutional Treaty and the social dimension
- Sheet 4:** The two main approaches underpinning social protection systems: the Bismarckian and Beveridgian models
- Sheet 5:** The challenge of enlargement and social protection: the thinking behind the reforms
- Sheet 6:** Regulations, directives and recommendations governing social protection and more specifically social security
- Sheet 7:** Who decides in matters relating to social protection at European level?
- Sheet 8:** Key bodies: The Social Protection Committee (SPC)
- Sheet 9:** Key bodies (cont.): The Economic Policy Committee (EPC)
- Sheet 10:** Key bodies (cont.): The Pensions Forum
- Sheet 11:** The Open Method of Coordination (OMC)
- Sheet 12:** International social security instruments: the International Labour Organisation (ILO) Conventions
- Sheet 13:** International instruments (cont.): the Social Charter, the European Code of Social Security and the Council of Europe's 'coordination instruments' for social security
- Sheet 14:** Sources of information



Introductory note

Social protection systems set up within the European Union protect people against the threat of poverty resulting from unemployment, ill health and invalidity, parental responsibilities, old age or the loss of a spouse or parent. They also guarantee access to vital services for ensuring decent living standards.

It is the Member States that are responsible for the organisation and financing of social protection systems.

Nevertheless, the European Union has a specific role in ensuring, through **EU legislation coordinating national social security systems**², that people who move across borders and hence come within the remit of different social protection systems are guaranteed social security protection. Such legislation mainly applies to statutory social security schemes.

Mobility issues arising from occupational pension schemes are dealt with in the **Pensions Forum**³.

More recently, the European Union has also started promoting closer cooperation among the Member States on the modernisation, i.e. modification, of social protection systems, which face similar challenges across the European Union. This cooperation takes place within the **Social Protection Committee (SPC)**⁴, where the **Open Method of Coordination**⁵ was developed and applied to the policy areas of social inclusion and pensions and will be applied to that of health and long-term care.

The sheets contained in the first chapter of this training guide address all of these topics from a European perspective.

2 / See Sheet 1

3 / See Sheet 11

4 / See Sheet 9

5 / See Sheet 12

THE ROLE OF SOCIAL POLICY AND SOCIAL PROTECTION IN THE CONSTRUCTION OF THE EUROPEAN UNION

If we are to understand the challenges and developments that have occurred, we must always bear in mind the fact that the European Union was initially built:

- on the determination to *guarantee peace*, with the two main architects of the Union being France and Germany;
- and on the firm belief that peace, combined with *economic prosperity, would inevitably result in social well-being*.

This is why the economic dimension was initially prioritised during the process of European construction.

However, it is also important to realise that two initiatives were taken on social protection from the outset.

The first was to establish the *objective of harmonising* social security systems (Article 136, formerly 117, of the Treaty), an objective which has so far not been attained but was credible at the time.

In fact, it is interesting to note that the six founding members had social insurance pension systems and five out of the six had health insurance schemes (Italy still had a universal health system at the time). This is why the principle of harmonisation was included in the Treaty of Rome.

The second was *the adoption of Regulation 1408/71 and Regulation 574/72*. These regulations guarantee the right of employees and self-employed people moving within the European Union to benefit from social security protection. They deal with the coordination of social security schemes.

However, as its name – the Common Market – indicates, the focus was rapidly and virtually exclusively shifted to the economic dimension of the Union, in particular since the founding members were convinced that economic development would inevitably result in social progress.

► AWARENESS OF THE IMPORTANCE OF SOCIAL FACTORS IN EUROPEAN CONSTRUCTION

It was not until the end of the 1970s/beginning of the 1980s (a period when, on one hand, the Union was pursuing its aim of economic development and, on the other, major industrial restructuring operations (the steel plan) and various oil crises were taking place which had serious effects on the population and, in particular, workers) that people became aware that *economic prosperity in Europe did not necessarily guarantee social redistribution* and therefore *social progress*. In other words, economic development was undoubtedly necessary but was not sufficient to promote 'social well-being'. It therefore became necessary to focus efforts on employment and the employment policies implemented in the Member States.

This also meant that whilst efforts were being made to develop and bolster the Economic and Monetary Union, a 'social Europe' also had to be created (or continue to be created).

Two factors were decisive in attempts to achieve this objective.

First and foremost, the action instigated by the then President of the Commission Jacques Delors to set up *social dialogue at European level*. This was not simply a matter of getting European employers and unions to meet and discuss matters together, but also getting them to conclude social agreements at this level, which was by no means an easy task.

Several meetings were held within the framework of what was then known as the social dialogue summit, which later became the Social Dialogue Committee we know today. These meetings led to an agreement between the social partners, signed on 31 October 1991, in which they

assumed authority for negotiating framework agreements at European level.

This agreement was annexed to the Maastricht Treaty, virtually unaltered, as a social protocol and subsequently integrated into the Treaty of Amsterdam (Articles 138 et seq.), prompting the signature of five agreements at European level in addition to those signed in Europe's sectors of industry:

- framework agreement on parental leave (14 December 1995);
- framework agreement on part-time work (6 June 1997);
- framework agreement on fixed-term work (18 March 1999);
- voluntary⁶ framework agreement on telework (16 July 2002);
- voluntary framework agreement on work-related stress (8 October 2004).

On the other hand, a sixth voluntary framework agreement is currently⁷ under negotiation, and deals with "harassment and violence at work".

Besides, the social partners have adopted two "frameworks of action":

- the first on 14 March 2002. It relates to the lifelong development of competencies and qualifications;
- the second on 22 March 2005. It relates to gender equality.

The second decisive factor, which affected social protection more specifically and led to a radical change in the approach to this matter, was firstly *Denmark's accession* and then the accession negotiations opened with Austria, Finland and Sweden which joined the Union in 1995.

Whilst in the majority of the then Member States, there was much discussion on how social protection systems should be reformed in the prevailing climate of economic uncertainty and dominant neo-liberalism (which led some people to question whether social protection in fact hindered economic dynamism and competitiveness), the Nordic countries highlighted the notion of the welfare state. Their experience showed that social protection, far from hindering economic growth, was actually a productive factor (this expression was introduced by the Commission a few years later).

In 1995, the Netherlands, which at the time held the Presidency of the Union, launched a public debate on the matter. The Commission duly responded in March 1997 by publishing its Communication "Modernising and improving social protection in the European Union".

► SOCIAL PROTECTION BECOMES A EUROPEAN ISSUE

Firstly, when the *common economic and monetary policy* established a single currency, the Member States became aware of the loss of one of the potential economic variables for strengthening competitiveness, namely what was referred to as "competitive devaluation". The most socially advanced Member States realised that if nothing was done, social protection, which after all was not harmonised, would have to fill this gap. This is why people pushed to have the debate held at European level.

Secondly, *social protection systems were facing the same challenges* in all Member States.

If we cast a glance at the changes that have taken place and are currently taking place in the 15 old countries of the Union, the social protection systems in these countries, regardless of the way in which they function or are funded, are facing the same challenges and are subject to the same pressures. These are mainly due to:

⁶ 'voluntary' because unlike the three previously mentioned agreements which result in 'directives', the European social partners personally undertook to ensure that the agreement was implemented

⁷ / As of 8 February 2007

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- the **changing nature of work** (new jobs are emerging in the service sector whilst jobs in manufacturing are decreasing, the need for skills is increasing, there are more part-time and temporary jobs than ever before);
- the **increase in unemployment**, above all long-term unemployment: 11% of the working population is unemployed (18 million unemployed people), half of whom are long-term unemployed (over one year). Only 60% - 150 million people - of the working age population (16-65 years old) actually work (in the 1970s this figure was 72%);
- the **ageing** of the population: between 1995 and 2025, the number of people aged 60 and over, which amounted to 77 million in 1995, will increase by at least 29 million, and perhaps up to 44 million, which means that the proportion of older people in the total population will rise from 21% to approximately 30%;
- the **new gender balance**: whilst the number of employed men has remained stable at approximately 86 million, the number of women working has increased over the last 20 years from 46 million to 61 million and is continuing to rise. This requires modifications to be made to the traditional structure of social protection, which is based on the husband being the breadwinner whilst the wife stays at home to look after the family;
- the **breakdown of family structures**: higher divorce rates, more single-parent families and so on;
- **migration** of workers within the European Union, the internationalisation of companies and labour and so forth.

On top of this are the challenges presented by the **enlargement** of the Union to include 12 new countries: these 12 countries have a combined population of 105 million, i.e. 21.5% of the Union's current total population⁸, and a GDP that is four points lower than that of the EU as a whole.

So in all the countries of the Union, social protection systems are subject to pressures, need to face up to changes and must overcome the same challenges if they are to continue to meet the needs and expectations of **today's** citizens.

That is why a debate has been launched, discussions are underway and reforms are being undertaken throughout the Union.

A third point relates to setting up the Single Market, in particular the freedom to provide services and the **decisions made by the European Court of Justice** on this matter, mainly:

- the Kohll and Decker judgements on health care;
- and the Smits and Peerbooms judgements on the freedom to provide hospital services.

⁸/ The Union's current total population rose to 492.8 million on 1st January 2007.

THE EUROPEAN UNION TREATIES. FROM THE TREATY OF ROME TO THE TREATIES OF AMSTERDAM AND NICE: THE EUROPEAN SOCIAL DIMENSION AND ECONOMIC AND SOCIAL COHESION

Over the course of European construction (and in particular European enlargement), the need to gradually amend and modify the existing Treaties has emerged. The most substantial modifications were made in Maastricht in 1992 (in particular with the adoption of the principle of having a single currency and the inclusion in an Annex of the Social Protocol drawn up by the social partners), in Amsterdam (in particular with the acknowledgement of the key role of the social partners in social legislation) and in Nice in 2000 (with the introduction of a new strategy combating discrimination and exclusion).

So from this point on in the Treaty, employment became established as an integral part of a coordinated European strategy. As a result, annual National Action Plans are drawn up for each Member State in close collaboration with all stakeholders, including trade union organisations.

Moreover, the Treaty enshrines fundamental social rights both in the preamble and in the social chapter.

It should be noted, however, that the majority of these rights pertain to workers and job creation.

Other rights (such as those relating to health care and education) continue to fall within the competence of the individual Member States based on the principle of subsidiarity.

However, it is important to note that the social chapter sets out the core role of social dialogue, through which the unions can negotiate agreements - that can then become directives⁹ - with the employers.

The social chapter also covers:

- health and safety at work;
- equal opportunities;
- working conditions;
- consultation of workers.

In addition, as mentioned above, a new protocol introduces a legal basis for combating exclusion.

Under Article 13 of the Treaty (on combating all forms of discrimination), the European Council adopted two directives aiming to guarantee:

- equal treatment for all persons irrespective of racial or ethnic origin (29 June 2000);
- equal treatment in employment and occupation, irrespective of religion or belief, disability, age or sexual orientation (27 November 2000).

As regards fundamental social rights, based on Article 7 of the Treaty the European Council can draw attention to a serious and persistent breach of fundamental social rights and if necessary may suspend certain rights of the country concerned (the Treaty of Nice supplemented this measure with a preventive instrument).

With a view to ensuring economic and social cohesion, the Treaty obliges the EU to commit itself to reducing the disparities between the richest and poorest regions within Europe through the use of the European Structural Funds. The purpose of these funds is to reduce the gaps between all regions, including disadvantaged and rural areas. This principle appeared for the first time in the Maastricht Treaty.

⁹/ See sheet 1

THE CONSTITUTIONAL TREATY AND THE SOCIAL DIMENSION¹⁰

At the Intergovernmental Conference held on 29 October 2004 in Rome, the heads of state and government signed the European Constitutional Treaty, which is currently in the process of being ratified in each of the 27 Member States.

Although the Treaty falls short of the ETUC's ambitions on certain points, it undoubtedly marks progress in social rights. Moreover, it is better than the EC/EU treaties currently embodied in the Treaty of Nice. The new Treaty represents a step towards an improved European framework, even if that has not yet been achieved.

The Treaty is also important in view of the new situation following European reunification, which was achieved with the accession of the ten new Member States to the Union in May 2004. The compromises contained in the Treaty of Nice, which were made so that the Member States could use blocking mechanisms, permanently threatened the European Union with paralysis. There was a real risk that the Union would turn into a free trade area governed by a minimum set of common rules and would end up turning its back on closer integration and social, economic and political union.

Part I is the most innovative part of the new Constitution. It was the subject of intense debate for 18 months and provides the European Union with a new framework for action in post-unification Europe. In general, progress has been made:

- important objectives, principles and values (such as solidarity, equality, anti-discrimination and gender equality) have been bolstered;
- codecision (between the Council of Ministers and the Parliament, which have been put on an equal footing) will become a normal legislative procedure;
- team presidencies lasting 18 months will replace the six-month rotating Presidency, which should ensure greater consistency in activities;
- countries' abilities to block decisions will be limited by the abolition of the national veto in certain areas (e.g. the structural funds, asylum and immigration).

On social matters, compared to the Treaty of Nice the new European Constitution marks an important step forward:

- the new Constitution will specifically acknowledge the role of the social partners and the Tripartite Social Summit;
- the social market economy and full employment will be included amongst the Union's objectives (in the Treaty of Nice, the terms used were 'open market economy' and 'a high level of employment'). The promotion of social justice, solidarity between generations and the fight against social exclusion and discrimination also feature amongst its objectives;
- gender equality will become one of the Union's values;
- social policy will be expressly recognised as a shared competence and not simply as a complementary competence;
- the Constitution will include the Charter of Fundamental Rights (i.e. important social rights). As a result, the Charter will become legally binding and cases pertaining to the Charter may go before the European Court of Justice. The Charter helps promote these fundamental rights, including trade union and social rights, and makes them more visible;
- measures relating to horizontal policies, consumer protection, gender issues and social clauses will be included in the Constitution;

¹⁰/ Resolution of the ETUC Executive Committee of 13-14 October 2004

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- a legal basis for services of general economic interest (public services) will be introduced;
- new possibilities for economic coordination within the euro zone will be included in the Treaty;
- matters pertaining to the social security of migrant workers will no longer require unanimity;
- open coordination¹¹ will be the instrument used for industrial and social policy. The Commission may propose guidelines, in particular for matters relating to labour legislation, working conditions, social security and industrial policy;
- a right of citizen's initiative will be introduced: if citizens manage to collect one million signatures in a significant number of Member States, they will be entitled to ask the Commission to submit an appropriate proposal to the legislator on the matters for which they think a legal measure is required.

The Constitutional Treaty, as mentioned above, is far from perfect and contains some weak areas, but represents the only concrete achievement to date. It should therefore be considered as the starting point of a long process and not as an end result.

11/ See sheet 11

THE TWO MAIN APPROACHES UNDERPINNING SOCIAL PROTECTION SYSTEMS: THE BISMARCKIAN AND BEVERIDGIAN MODELS

The social security systems within the European Union are based on two very different approaches:

- the Bismarckian model;
- the Beveridgian model;

both of which are named after their founders.

► THE BISMARCKIAN MODEL OR THE SOCIAL INSURANCE SYSTEM

The Bismarckian system was introduced at the end of the 19th century in the German Empire. It was set up by the Chancellor of the time, Bismarck, who laid the foundations for the system in his speech given in the Reichstag on 17 November 1881. In this speech he acknowledged that the State had a duty to "positively promote the well-being of all its members, in particular the most deprived members of society, by using appropriate institutions and public resources".

The first laws on social security were established based on this principle and were solely intended to cover workers in industry and trade whose wages were below a certain threshold.

However, despite the appearances, this "social" legislation was not an end in itself, and its objective was primarily political:

- to cut the ground from under the feet of a powerful social democratic opposition;
- to distract the working class from revolutionary tendencies and bind it to a State which 'only had its best interests at heart'¹².

One characteristic of the system was clear from the start: social insurance was compulsory and directly linked to an employment contract and the exercise of a particular profession. In other words, it is employment which establishes the "right" to social security.

Another of its characteristics is the way in which it is funded: it is financed mainly by salaries (the fruit of labour), and the contribution is shared by the workers and the company. This does not rule out intervention by the State which can either pay a subsidy or 'beef up' the social security budget as is the case in countries such as Belgium, Luxembourg and Slovakia.

Over the years, the group of people benefiting from social insurance has increased to embrace all, or virtually all, workers and other socio-professional groups.

Above all in the area of health, the basic principle of social insurance is that the insured person contributes according to his/her means and receives according to his/her needs. It is this which differentiates this type of insurance from normal commercial insurance.

The social security schemes in the majority of countries in continental Europe (Austria, Belgium, France, Germany and Luxembourg) and in most of the new Member States are inspired by the Bismarckian system.

► THE BEVERIDGIAN MODEL OR UNIVERSAL COVER

In 1942 in the United Kingdom, the economist Lord Beveridge published a report which caused a huge stir, in which he set out the six principles that should form the basis of the social security system:

12/ Bismarck said that "with the advent of social insurance, the unions would have nothing left to do"

- a flat rate of subsistence benefit ensuring a decent income;
- flat rate contributions, but health care and family benefits funded out of taxation;
- centralised administration of the system;
- the protection of the entire population regardless of whether they are employed;
- cover of all types of risk;
- integration of this national insurance into a broader system, in which economic policy has the task of ensuring full employment.

It was therefore on the basis of these principles that the laws governing social security in the United Kingdom were established from 1945 onwards.

Despite the changes which have proved necessary over time, it is more or less these same principles that still govern the social protection systems in the United Kingdom, Ireland, the Nordic countries and some of the new Member States today.

Unlike under social insurance systems, the right to social security is dependent on residence and not on employment. This means that the entire population is covered, hence the reason why we use the term “universal cover” when referring to this system.

► A BLURRED LINE BETWEEN THE TWO SYSTEMS

It should be noted, however, that over time the boundary between the two systems has sometimes tended to become rather blurred.

For example in France, the gradual shift of contributions from some to all incomes means that, in this respect, the system has strayed from the original model. Specific examples of this shift are the introduction of the generalised social contribution (Contribution Sociale Généralisée, CSG) and the introduction of universal healthcare insurance (Couverture Maladie Universelle, CMU) which extends social security rights, within the framework of the law on exclusion, to include criteria pertaining to residence and financial means.

Some countries have set up hybrid systems:

- social insurance for pensions and universal cover for health insurance, as in Spain, Portugal, Italy and Greece;
- or the opposite, as in the Netherlands.

THE CHALLENGE OF ENLARGEMENT AND SOCIAL PROTECTION: THE THINKING BEHIND THE REFORMS

Systems largely based on the Bismarckian system from the outset.

In the European Union, we often forget that the social protection systems in the Central and Eastern European countries are founded on the same principles as those which exist in the countries of continental Europe (Austria, Belgium, France, Germany, Luxembourg, etc.). Generally speaking these systems stem from an old tradition and, for historic reasons, can be traced back to the Bismarckian system of social insurance (the first health insurance fund was set up in Slovenia in 1835. This preceded the implementation, under the Austro-Hungarian monarchy, of fundamental principles of German social legislation which remained in force until 1922. The same happened in Romania after 1874 with the public health law). The integration of the countries from the Soviet bloc prompted three important measures to be taken in the area of social security, the impacts of which are still being felt today:

- the incorporation of the social budget into the State budget;
- funding by individual companies or governments;
- the absence of contribution limits and contributions tailored to meet individual needs.

The fall of the Berlin Wall was highly symbolic: it represented the end of this system and the end of an era, and gave rise to a strong desire amongst the people in the Central and Eastern European countries for political and social change, including in social protection systems.

One of the first measures taken was to restore a certain amount of financial autonomy to the social security systems, although in some cases this means that the social insurance budget remains 'annexed' to the State budget, as in Estonia, or that the State and/or parliament retains control of the social security budget, as in Hungary or Poland for example. This is also true in some European Union countries – for example in Sweden or more recently in France (1996) - where the respective parliaments of each of these Member States approve and adopt the social security budget.

This step is even more important since in the Central and Eastern European countries (as a result of actual unemployment rates and the state of the economy), the contributions paid in have amounted to less than the total benefits paid out. The State budget has been left to make up the difference in accordance with ILO Convention No. 102 of 1952 on social security (minimum standards) which considers it to be a fundamental guarantee that the State remains the body ultimately responsible for ensuring the solvency of social welfare schemes.

Another approach was to involve the social partners in the management of risks covered by social insurance via tripartite advisory bodies which group together the public authorities, the employers and the trade union organisations. This is the case, for example, in Poland. The risks, which in these countries are mainly financed by contributions, differ from those covered by social security since the latter are financed by taxes, affect the entire population and also include spending on what can be described in the European Union as social assistance. They are exclusively managed by State-run bodies.

Moreover, over the last 10 years or so, numerous initiatives have been taken and are still being taken regarding social protection schemes. This has often been under pressure from and under the 'liberal' influence of the World Bank and the International Monetary Fund. However, an immense amount of work still remains to be done, and there is a huge task ahead.

This is largely due to the major role played in implementing such reforms by senior officials in the countries concerned. Although numerous seminars and technical training sessions have

been organised for these officials, trade union organisations have not been involved in such initiatives - despite their transition, in most cases, from mouthpieces for the authorities into independent organisations formulating demands and intent on asserting and protecting the interests of their members.

However, the trade union movement needs to get involved in this vitally important area, because far from being a technical matter this is a highly political area in the strongest sense of the term. In fact the reforms that are implemented will determine the type of society that is created.

Given the economic and social changes that have occurred in these countries, they now need to tackle at least four major challenges:

- the need to continue down the path of reforms undertaken since the changes to the political regimes. In a difficult economic and social context for the people concerned, these reforms often require agreement on new and major efforts (e.g. on pensions: the reduction in the statutory retirement age or the extension of contribution periods required to benefit from a full pension have come at a time when unemployment is increasing and atypical employment practices are becoming more frequent, with part-time contracts, fixed-term contracts and the like);
- the lack of financial resources. The integration of social security budgets into the State budget resulted firstly and most importantly in the fact that social protection schemes now have no financial reserves, whilst masking trends that were emerging and required reforms to be undertaken or even forward planning of reforms;
- the impact of their integration into the European Union which, in addition to demanding efforts in the area of budgetary stability and rigour, would also like to see reforms undertaken that are in line, or preferably convergent, with existing systems, so as to prevent a new wave of social dumping. This demand is even tougher because once these countries are integrated, their systems will start to be coordinated with the social security schemes in other countries as a result of the application of Regulation 1408/71, which determines the rules and methods governing these systems;
- a challenge that is often hard to face up to: a change of social system i.e. the transition from an economy which, though 'managed', had no unemployment, since everyone was working (sometimes regardless of the quality and economic utility of that work) and in which everyone benefited from social protection, to a market economy, in which there is a fundamental link between employment and social protection and which, at least initially, leaves many people by the wayside. This sometimes leads to disenchantment, as reflected in the results of some recent elections.

Lastly, the basic challenge for these countries is to ensure that the reforms do not result in new social fractures or create new and substantial social inequalities.

Two reforms reflect the current restrictions and the challenges that need to be overcome particularly well: the reform of the pension system and the reform of the health system.

► PENSIONS: THE URGENT NEED FOR REFORM, COUPLED WITH ATTEMPTS TO RECONCILE NEED WITH SOLIDARITY

If there is one area of social protection in most need of reform, it is pensions. However, this is not mainly for demographic reasons as is often suggested in the European Union in an attempt to justify the need for reforms.

In fact, whilst the ratio of older people in the overall population, particularly in the working age population, is approximately the same and sometimes even lower than the ratio in the Euro-

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pean Union (the current ratio in the EU is on average one person aged 65 or over to four people of working age – a rate of 25% - whereas, for example, the Czech Republic has a rate of 24.1% and Hungary has a rate of 22.5%), the demography in these countries differs from that in the European Union in several respects and this affects how pensions are financed.

Firstly, in the majority of the Central and Eastern European countries, the population is declining, resulting in a birth to death ratio of less than 1 (this can be partially attributed to emigration to the European Union).

Secondly, life expectancy is decreasing, which is the exact opposite of what is happening in the Union. Some of the reasons often put forward to explain this trend are living conditions, stress and alcoholism. In other words, given the fact that there is a higher mortality rate, the ageing of the population is not as marked and the anticipated impact of the 'granny boom', which is greatly feared in the European Union, is therefore not felt in the same way.

Conditions for pension entitlements in the Central and Eastern European countries could be regarded as generous (legacy of the former system) when compared with the regulations governing the systems in the European Union.

For example, the age required for drawing a pension did not usually exceed 60 for men and was less than 60 for women (usually 55 or 56), although reforms are planned in this area. In Bulgaria, for example, the age was even lower (52 for men and 47 for women) depending on the worker's occupational category.

As regards the duration of a person's working life, he/she had to make contributions for approximately 20 years to be entitled to draw a full pension (this was the case in Hungary and also for women in Bulgaria).

However, despite the advantageous conditions, pensions were (and still are) fairly low. There are of course exceptions to this rule, Slovenia for example, although the reference to the wage earned can sometimes be deceptive. In reality, a reference wage is often used to calculate the pension but it does not correspond to the wage that the worker actually earned.

To mention just one example, in Slovenia, which is the new Member State with the highest GDP (in 1998, the GDP was 65% of that in EU15) and the one where pensions seem to be the highest, the average pension of SIT 67,914 (?1 = SIT 182.89) corresponds to only 69% of an average wage (SIT 98,336), 37% of pensioners receive less than SIT 50,000 per month and only 18% have a pension that is higher than the average wage!

Since the aforementioned major changes occurring on the labour market (such as the increase in unemployment and more atypical employment contracts) have a considerable impact on people's ability to contribute, the system is currently suffering from a lack of funds.

But there is another negative factor at play: fewer women in this country work, which means that even less money is available for the pension schemes.

The first reason for this trend is, dare we say it, a classic one: when unemployment rates go up, women are often the first to bear the brunt, both here and elsewhere.

A second reason is perhaps more surprising: in this country a so-called 'feminist demand' is emerging for femininity to be "recognised", which is breaking with the ideology of the former system. Whereas in the EU, the advancement of women requires their economic emancipation and hence access to employment (in 20 years, the number of women working has increased from 40 million to 60 million, a figure which is continuing to rise although it mostly concerns part-time employment. This increase has allowed the EU to compensate for some of the effects that the 'granny boom' has on financing pensions), in Slovenia, women seem more concerned about having their tasks and role in family life recognised.

A certain number of reforms have been introduced but they are mainly geared towards developing private pension schemes.

However, although the majority of the reforms have focused on setting up supplementary pension schemes, it would be unfair to say that nothing has been done to reform the statutory schemes, despite the fact that the measures taken were regarded negatively by citizens and/or workers.

These reforms dealt with:

- increasing the retirement age (increase in the Czech Republic to 62 years for men and 61 for women by 2006, increase in Hungary to 62 years for both sexes by 2009, increase in Lithuania to 62.5 years for men and 60 for women by 2009 and so on);
- extending the duration of insurance cover;
- abolishing occupational categories which meant that for specific jobs (tough working conditions) the worker could work for a shorter period in order to qualify for a full pension. This method is used for example in Bulgaria.

On the other hand, nothing has really been done to raise the level of statutory pensions. Instead, as mentioned above, priority has been given to setting up and developing private supplementary pension schemes.

In fact, under pressure from international financial institutions such as the IMF and the World Bank, which are influential in this area, politicians in the Central and Eastern European countries have been rushing to set up what are commonly referred to as pension funds but without fully understanding what the term means. However, the term has had, and perhaps still has, a magical effect as if it alone were capable of eliminating all the fears aroused by the statutory systems.

However, owing to economic instability such funds have had varying degrees of success. For although pension funds cover 1 million workers in the Czech Republic and are compulsory in Poland for workers born after 1968, they cover fewer people in other countries, such as Hungary, and hardly any in Slovenia or Bulgaria, where pension funds are estimated to cover just under 6% of the workforce.

The reforms undertaken still leave several questions unanswered, since the debate on pension reform encompasses more than purely technical matters, and the issues and the priorities that need to be set are provoking a wide-ranging social debate.

The first of these issues concerns dialogue.

It goes without saying that whilst everyone seems aware of the urgent need to implement what are often drastic reforms, the political decision-makers are often the ones who decide on them. They often do this hurriedly and without engaging in what is an essential process of consultation and dialogue, in particular with the social partners, if only to gauge approval of the planned reforms amongst the population, and particularly workers (since they are the main financial contributors and those most affected by the consequences). So instead of acting as partners and initiators of reform, the social partners, and hence workers, have reforms imposed on them if they do not fight them.

The second issue might be to try to find out when the changes to the figures in statutory schemes will be made.

This question and the issue of raising the level of statutory pensions are not currently on the agenda.

However, when potential increases in contributions are proposed, for example in order to improve statutory schemes, the natural reaction might well be to prefer supplementary

schemes, which are more personalised, rather than other more collective schemes which are hence less attractive.

This will have an impact on social cohesion.

The first level of pensions is the most universal and socially just type of system.

However, in putting off reforms, is there not a risk of firmly establishing the divide between those people who will have access to a second level, who will be a minority for some time but will later become privileged members of society, and those people who will have to make do with a statutory pension scheme at a lower level?

What will have happened, then, to the solidarity which is the essence of social cohesion?

We may also question the consistency of such reforms with those carried out within the framework of the European Union.

Contrary to popular belief in these countries, the pensions paid in the European Union are not, for the most part, paid out by private pension schemes, i.e. pension funds, as was illustrated in the Green Paper on supplementary pensions presented by the Commission on 10 June 1997:

"At present, approximately 88% of all pensions paid in the EU are accounted for by state pensions", in other words by schemes financed by the pay as you go method and hence those which are based on solidarity between people and between generations. However, situations clearly vary from one country to another.

We should also note that virtually all the countries in the Union have undertaken reforms (Denmark, France, Germany, Italy, Spain and so on) but that these reforms have focused on modifying the systems rather than fundamentally reforming them (unlike what has been achieved in South America, and particularly in Chile, under the instigation of the International Monetary Fund, the drastic impact of which we are now beginning to see).

Of course, within the European Union there is pressure, mainly from insurers, to set up supplementary private pension schemes. However, in the first National Action Plans on pensions in 2003, the 15 EU Member States reaffirmed their attachment to public pension systems and outlined the reforms that they would take to improve them.

The risk in several of the Central and Eastern European countries is that these schemes, which should in fact only be supplementary, are actually taking over as the main schemes.

Given the lack of funds in the statutory schemes, it is legitimate to question the purpose of supplementary schemes. Due to a lack of adequate reform of statutory systems to make them more effective, are supplementary schemes not in fact being called upon to play a role which is far from marginal?

Moreover, the supplementary systems that have been set up in these countries are almost exclusively defined-contribution schemes and not defined-benefit schemes. In short this means that when workers retire their only income will be what they actually contributed or 'saved' during their working life. So what will be the outcome, given the low wages in these countries and the particularly high actual unemployment rate (with the exception of some regions in the Czech Republic and Hungary), which is often double that in the Union?

Have we not put the cart before the horse in this reform process? Supplementary systems cannot actually be decoupled from the changes in or forms of employment in the countries where they have been set up. So, would it not be sensible (before they are set up?) to consider the situation of those people employed under atypical, part-time or fixed-term employment contracts (women and young people in particular)? What possibilities would these people have for joining this type of supplementary scheme and what rights would they gain by doing so? In short,

do these systems take account of, and are they adapted to, the situation of these workers, who are frequently in a precarious situation?

► REFORM OF THE HEALTH SYSTEM: A DIFFICULT CHOICE BETWEEN RATIONALISING RESOURCES AND THE LURE OF PRIVATISATION?

Health systems are also affected by the social and economic changes in these countries. There is no shortage of debates, which are sometimes geared to making difficult decisions and pit the following players against each other:

- the government, which wants to control spending;
- the workers in the country, who want to protect their jobs;
- the users (who also finance the system) and also the trade union organisations, which want to see a system set up that is effective, non-selective and that neither causes exclusion nor aggravates the social divide between those who would have the means to ensure that they are (well) cared for and the rest.

An initial study revealed that the quantitative data (regarding nursing staff, hospitals and so forth) were basically fairly similar, even slightly higher than those for the whole Union (study commissioned by the Parliament in November 1998).

The number of doctors, pharmacists, nurses and so on is considered to be more or less adequate. For example, in Bulgaria or Latvia, there are 33 doctors per 10,000 inhabitants; in Hungary this figure is 39. In the Union on the other hand, there was an average of 28.1 doctors in 1994 (though in the individual Member States this figure ranges from 53 doctors in Italy to 15.6 in the United Kingdom).

The problem is how these health professionals are distributed around the country: there is a concentration in towns and certain regions and a complete lack in other areas. However, this problem is not specific to these countries.

The qualitative aspect of the systems is another matter: the basic message is the same though the problems differ.

Hospitals are often run down, poorly equipped and badly located, and radiologists work with equipment that is not simply outdated but is also dangerous for themselves and their patients.

As regards the organisation of the health system, the same distinction is made here as in the rest of the Union (between universal cover and health insurance). However, regardless of whether we are talking about local, regional or state health care systems (Bulgaria, Hungary, Lithuania for insured people) or whether people are insured by a health insurance system (Czech Republic, Poland, Romania, Slovenia amongst others), health care (ambulatory services or community medicine) is normally free, although there are countries where the patient is asked to make a contribution (such as in Estonia where the patient is asked to pay a few kroons for a consultation).

In principle, hospitalisation is provided free of charge for people with insurance or those belonging to a health system (except in Latvia where there is a sliding-scale, fixed charge for hospital treatment). Medication prescribed and dispensed as part of hospital treatment is also free of charge, except for the time being in Bulgaria (since a bold reform is being implemented to overhaul the entire health care system).

Medication as part of ambulatory services can either be paid for by health insurance (Czech Republic and others) or the health care system (Romania, Slovenia, etc.) or be paid for by the patient but then partially refunded (Poland, Hungary, Lithuania, etc.).

There are two main trends relating to the reform of the system.

The first relates to the desire of the public authorities to rationalise funds, basically by trying to

achieve a better distribution of existing staff and installations.

Attempts have been made to do this in the Czech Republic, Hungary and Lithuania but they have met with strong resistance.

If the governments intend to make any progress in this direction, they will undoubtedly have to:

- develop better dialogue with the social partners, users and health professionals before any rationalisation measures take place;
- act with public health and quality in mind instead of restricting themselves to an approach purely governed by administration and accounts;
- conduct their actions transparently, both as regards the desired objectives and the means for achieving them.

The second trend relates to the privatisation of health care systems which has a dual objective: to increase the responsibility of users and practitioners and supposedly to achieve better economic performance, an objective which remains to be proven.

In the Czech Republic, Poland and Romania, sickness contributions are paid to health insurance funds which sign contracts with doctors and specialists within the health care network. However, this system has not managed to curb spending on health (Czech Republic) and has led to conflict (Poland) with health professionals, who are being forced to meet increasingly stringent profitability criteria, if not conflict with the entire population.

In Romania, the system of contributing to different health insurance funds was bolstered by the creation of a three-tier health system (as for pensions?) with increasing levels of financial participation from the insured people.

Privatisation can also prompt the creation of private agencies, as has occurred in Poland and Hungary.

But privatisation could also invade the hospital sector through the opening of private hospitals - although so far this trend has made only modest inroads (above all in the small establishments that carry out minor operations not requiring much large and costly equipment) - or through the opening of foundations within public establishments, as is the case in Poland.

In Bulgaria, the reform aims to take account of health professionals as well as hospitals and other health service providers. To achieve this aim, they have to be registered in the trade register and the entire hospital system would have to be privatised.

Privatisation, regardless of the form it takes, does not fundamentally question the founding principles of the systems. If we believe that health is a universal right, it cannot be subject to the laws of the market which, by their very nature and as we know from experience, lead to the selection of risks and to exclusion.

However, health-related matters cannot be reduced to a purely economic debate: this debate must take place within the wider debate on health policy that the State and the social partners want to foster in the country.

In any case, it is important, in terms of both how the health care system is financed and how it is organised, that public authorities take measures guaranteeing universal access to the system. Some changes, by their very nature, run counter to this objective.

Solidarity, which must not be confused with assistance, must also play a role in health care systems. This is a real choice for society, both in terms of the values that are being called into question and that need to be protected and promoted - or rejected - and in terms of the issues to be addressed.

SHEET 5

• S O C I A L P R O T E C T I O N I N E U R O P E •

Finally, enlargement has given rise to another problem: the balance of forces within the Union relating to the development and the future of social protection systems.

Since the fall of the Berlin Wall, the European Union has been much less active in these countries than the IMF, the World Bank and the US, which have taken more initiatives and established their predominance in the region. They imported a certain notion of social protection, which still prevails in the United Kingdom and Ireland today. In other words, the State guarantees a minimum, a safety net to prevent people from sinking into extreme poverty, and private or individual initiatives are responsible for providing the remainder of social protection, i.e. the largest part.

As we have already mentioned, during the transition from a centrally administered economy to a market economy, these countries were particularly influenced by this discourse and sought to create their social protection systems based on the American or Anglo-Saxon model.

So although, up until now, there have generally been:

- 13 relatively similar approaches in the area of social protection at European level (despite differing structures), i.e. a good basic level which has been made compulsory by law and is supplemented, if necessary, by occupational pension schemes (i.e. schemes that are negotiated within a company or sector);
- and two minority approaches (UK and Ireland) where the universal pension is a “mini pension” (which is not the case elsewhere);

accession, in particular of the Central and Eastern European countries, is likely to change the situation radically – and that is without mentioning Cyprus and Malta. In the long run, we could see a new and completely different balance of 13 against 14 for example!

This is likely to make the discussions in the Council and/or the Social Protection Committee¹³ more difficult.

¹³/ See sheet 8

REGULATIONS, DIRECTIVES AND RECOMMENDATIONS GOVERNING SOCIAL PROTECTION AND MORE SPECIFICALLY SOCIAL SECURITY¹⁴

Decisions on social security must be taken unanimously at European level. In accordance with the principle of subsidiarity, the European Union is not authorised to intervene in the workings, structure or financing of national social security systems. So, for example, the Union is not able to make a decision at European level on fixing a retirement age.

Things are different with supplementary pension systems. According to the case law of the European Court of Justice, they are considered as deferred pay. This means that these systems do not fall within the scope of social security legislation but instead within the scope of legislation governing industrial relations. Consequently, the decisions in this area are taken by co-decision, i.e. with the agreement of and after consultation with the Parliament.

► THREE IMPORTANT REGULATIONS

The Union has adopted first, two regulations¹⁵ on the basis of Article 42 of the Treaty on the free movement of workers:

- Regulation 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, which is going to be replaced by Regulation 883/2004. The actual adoption of the new regulation is subject to the entry into force (probably in 2008) of its implementing regulation, currently on the drawing board. The new regulation simplifies, modernises and improves the measures contained in Regulation 1408/71;
- and Regulation 574/72 laying down detailed rules for the application of Regulation 1408/71;

In 2003, the Union adopted a third regulation, Regulation 859/2003 which extends the provisions of Regulation 1408/71 to third-country nationals legally residing in a Member State.

These regulations do not aim to harmonise or unify the various social security schemes in the European Union, but rather to guarantee the rights to social protection of European citizens residing in a Member State other than their country of origin or of third-country nationals legally residing in an EU Member State.

They guarantee:

- equal treatment of all nationals of Member States;
- that all necessary periods of insurance, residence and employment are taken into account ('aggregation'). Therefore, when a worker moves to another Member State, periods under the legislation of other countries are taken into account by the competent institution in order to avoid the loss of earned benefits;
- social security benefits for employed and self-employed persons and their family members regardless of their place of employment or residence.

► TWO RECOMMENDATIONS¹⁶

The first recommendation¹⁷, of 24 June 1992, encourages the Member States to introduce a

14/ Texts relating to occupational health and safety, occupational diseases or gender equality are not mentioned in this document.

15/ Unlike directives, which need to be transposed into national law in order to be adopted, regulations come into force immediately provided that an implementing regulation is drafted at European level.

16/ Unlike regulations and directives, recommendations have no binding force, but instead act as an incentive.

17/ 92/441/CE

guaranteed minimum income for each of its citizens enabling them to "live in a manner compatible with human dignity".

The second¹⁸, of 27 July 1992, concerns the convergence of social protection objectives and policies. It aims to:

- promote access to health care systems which exist in the territory of the Member States regardless of people's resources;
- foster social integration and integration into the labour market;
- provide retired workers or workers forced to interrupt their careers owing to sickness, invalidity or unemployment with a replacement income, which will "maintain their standard of living in a reasonable manner".

Despite the fact that these two recommendations have no binding force, they evoke some fundamental demands and principles and can be a useful reference tool since:

- social protection systems are undergoing more and more reforms;
- more reforms are being implemented as a result of enlargement, aimed at maintaining and/or guaranteeing social cohesion.

► TWO DIRECTIVES ON SUPPLEMENTARY PENSIONS HAVE BEEN ADOPTED AND A THIRD ONE HAS BEEN PROPOSED

The first directive, of 29 June 1998¹⁹, aims to preserve the rights to supplementary pensions acquired in a Member State when a worker moves to another Member State in the Union.

Although this directive allows people to retain their acquired rights in the body or institution in their country of origin (referred to as dormant rights), it does not oblige these bodies or institutions to raise their value.

It also allows cross-border payments to be made, i.e. payment in other Member States of benefits due under supplementary schemes.

It also opens up the possibility for posted workers to remain members of the scheme in their country of origin during the period of their posting in another Member State. Posted workers and, where applicable, their employers are exempted from any obligation to make contributions to a supplementary pension scheme in another Member State.

Finally, employers, trustees or others responsible for the management of supplementary pension schemes must provide adequate information to scheme members as to their pension rights and the choices that are available to them under the scheme when they move to another Member State.

The second directive, of 3 June 2003²⁰, concerns the activities and supervision of institutions for occupational retirement provision²¹.

This directive was adopted in order to establish a prudential framework aimed at protecting future pensioners' rights.

It therefore only concerns the bodies managing occupational pension schemes and does not interfere in the organisation of social protection or pension schemes in the various countries. In accordance with the principle of subsidiary, this remains the competence of each of the individual Member States.

18/ 92/442/CE

19/ Directive 98/49/CE

20/ Directive 2003/41/CE

21/ It is also incorrectly referred to as the 'directive on pension funds' or the 'Bolkestein Directive' after the then Commissioner who championed it.

Nor does the directive interfere in the choice of, or the potential balance between, pay as you go and funded schemes.

It does not promote any kind of private scheme, neither defined contribution schemes (retirement savings systems) nor defined benefit schemes (when the benefit is defined, for example the payment of a certain percentage of the wage when a person retires or a certain percentage of the wage for each year when contributions were made).

This directive does, however, lay down three sets of rules:

- strict prudential rules to protect the beneficiaries and members of institutions for occupational retirement provision, who must receive adequate information on the rules of the pension scheme, on the institution's financial situation and on their rights;
- investment rules adapted to the characteristics of institutions for occupational retirement provision and to an efficient management of savings, since these institutions invest on a very long-term basis and have to diversify their assets by taking full advantage of the benefits offered by the single market and the euro (the 'prudent person' principle);
- rules permitting cross-border management of occupational pension schemes (and therefore cross-border membership, particularly in the case of multinationals). This requires mutual recognition of supervisory methods in force.

However, despite the demands made and the action taken by the ETUC at the time, no mention has been made of the role of the social partners in the bodies responsible for managing and supervising these institutions, or about socially responsible investment strategies.

In October 2005, the Commission presented a draft directive²², relating to the improvement of the portability of complementary pension rights, following the employers' refusal²³ to enter into negotiations on this theme as part of the social dialogue.

This draft directive provides for four main protective measures for the complementary pension rights of workers who relocate within the Union, but also within Member States:

- the vesting conditions (notably those relating to the minimum ages required to join complementary pension schemes, the periods of employment needed before acquiring rights – the "vesting periods" – etc.);
- the preservation of so-called "dormant" rights. This provision, if adopted, will improve upon the provisions of Directive 49/98/CE, already discussed at the beginning of this sheet. Indeed, this new draft would not only provide for the rights of employees who have left a company and therefore the complementary scheme to which they had belonged to be preserved, but would also put in place mechanisms to "revalue" these rights over time;
- the transferability of rights. This would be a "possibility" offered to employees who change jobs, of transferring the capital corresponding to the rights acquired into the new scheme to which they would belong, rather than leaving them as "dormant rights";
- information. In this regard, this proposal would complement the other directive (2003/41/CE) that has already been discussed. The employee must be correctly informed of the consequences, in terms of his or her complementary pension rights, of choices made when opting to transfer his or her rights or keeping them in the scheme that he or she is leaving;

However, this proposal does not address one of the fundamental questions in this area, that of taxation, which is also a non-negligible element in the portability of rights.

22/ COM (2005) 507

23/ See Part One, Sheet 10, "Pension Forum"

SHEET 6

• S O C I A L P R O T E C T I O N I N E U R O P E •

In fact, pension schemes are subject to different regimes depending on the Member State:

- some do not allow tax deductions for contributions paid into these schemes, but the pensions paid are not taxable for their beneficiaries;
- others, on the contrary, allow tax deductions for the contributions paid in, but the pensions paid out are subject to tax;
- yet others, finally, tax the pensions paid out, but also the profits generated by the investments during the period in which rights are accumulated, while allowing tax deductions for the contributions paid in²⁴.

This proposal, which needs to be adopted by the codecision procedure, is currently the subject of acrimonious discussions within the Council, between the Member States and in the European Parliament.

24/ On this subject, see the Commission's Communication of 19 April 2001 (COM (2001) 214

WHO DECIDES IN MATTERS RELATING TO SOCIAL PROTECTION AT EUROPEAN LEVEL? ²⁵

Of all the European institutions, the *European Commission* is undoubtedly the best known, though also the least well known. When governments have to embark upon difficult reforms, they often tend to:

- hide behind the Commission;
- and say that "it's Brussels that wants it...The Commission is imposing it."

It is true that the Commission has a role, as the guardian of the Treaties, in ensuring that the Union's directives and regulations are being put into effect and, if they are not, it can take the offending party to the Court of Justice to oblige it to comply with EU law.

However, it is only entitled to do so if the regulations and directives have been previously **approved and adopted by the Council of the European Union**, in other words by the ministers of the various EU Member States in their respective areas of expertise. The Commission does not adopt EU legislation; its role is that of a *policy initiator* i.e. it has sole responsibility for introducing legislative initiatives. Its other tasks include formulating recommendations and opinions within the framework of the Union's policies and the common security and defence policy. It also implements the budget and negotiates international agreements.

Since 1 January 2007, the Commission has had 27 members – one per Member State.

The President of the Commission is appointed by the Council of the European Union by qualified majority and must receive the approval of the European Parliament.

The Commissioners are then nominated by their respective governments in agreement with the President.

The President and the members of the Commission are then subject, as a "college", to a vote of approval by the European Parliament.

Thus, various proposals for regulations and directives on social policy, which have been adopted by the Council since the Union was created, originally came from the Commission.

The **Council of the European Union** (or the Council of Ministers) is the Union's **main decision-making body**. It mainly has a **legislative role**, i.e. it adopts the regulations, directives and recommendations ²⁶.

The Council, for reasons relating to the organisation of its work, holds a variety of meetings covering the different policy areas, which are attended by the ministers from the Member States and the European Commissioners responsible for the respective policy areas.

So, which ministers attend which meeting depends on what subjects are on the agenda. If, for example, the Council is to discuss employment issues, the meeting will be attended by the employment ministers.

However, there remains a 'single' Council in that, regardless of the particular Council configura-

25/ Some of the information contained in this document may change following the ratification of the Constitutional Treaty. It will therefore be updated if necessary when the time comes.

26/ Not to be confused with the European Council, which was given formal status by the Single European Act. The European Council brings together the heads of state and government of the Member States, assisted by their foreign ministers and a European Commissioner, as well as the President of the European Commission. It is chaired by the head of state or government holding the six-month Presidency of the European Union. It does not create legislation in the strict sense of the term, but draws conclusions which guide and are then represented in the decisions of the Council (of Ministers) of the European Union. It meets at least every six months at the end of each six-month Presidency.

tion that adopts a decision, that decision is always a 'Council' decision and no mention is made of the configuration.

In the 1990s there were 22 separate policy areas; this was reduced to 16 in June 2000 and then to 9 in June 2002 (General Affairs and External Relations; Economic and Financial Affairs; Competitiveness; Cooperation in the fields of Justice and Home Affairs (JHA); Employment, Social Policy; Health and Consumer Affairs; Transport, Telecommunications and Energy; Agriculture and Fisheries; Environment; Education, Youth and Culture).

The Council takes decisions:

- **by simple majority** on procedural matters;
- **by qualified majority** for a large number of decisions on matters concerning the internal market, the economy and trade. Since 1 January 2007, qualified majority has been made subject to two conditions: the majority of Member States approve – in some cases a two-thirds majority – and a minimum of 255 votes²⁷ are cast in favour, which is 72.3% of the total. In addition, a Member State may ask for confirmation that the votes in favour represent at least 62% of the total population of the Union;
- **unanimously** for decisions concerning defence, taxation, social security, asylum and immigration.

The Council takes its decisions on social security matters alone and unanimously, which means that a single Member State can veto the decision. It is obliged only to seek the opinion of the Parliament and, if appropriate, of the various advisory bodies (in particular, the European Economic and Social Committee).

In addition to its legislative role, the Council:

- coordinates the economic policies of the Member States. This coordination is carried out by the economic and finance ministers, who together make up the Economic and Financial Affairs Council (ECOFIN);
- concludes international agreements, i.e. it officially signs agreements between the European Union and third countries;
- approves the budget drawn up jointly with the European Parliament. The rules authorise the Council to take the final decision on compulsory expenditure (essentially spending on agriculture and spending resulting from international agreements concluded with third countries), whereas the Parliament has the final say on non-compulsory expenditure and takes the final decision to adopt or reject the budget as a whole;
- aims to define a common foreign and security policy, but in a such a way that the Member States do not have to give up their national sovereignty in these matters;
- establishes cross-border cooperation on drugs, terrorism, international fraud, human trafficking and the sexual exploitation of children. The ministers for justice and home affairs deal with these matters by acting collectively within the Justice and Home Affairs Council (JHA).

To help the Council in its work, each Member State has a permanent team ('representation') in Brussels. The head of each representation is, in effect, his or her country's ambassador to the EU. These ambassadors (known as 'permanent representatives') meet weekly within the Permanent Representatives Committee (**COREPER**). They prepare the decisions of the Council²⁸, ensure consistency in its work and resolve technical issues prior to submitting the policy proposals to the Council.

27/ Number of votes per country: France, Germany, Italy and the United Kingdom: 29; Poland and Spain: 27; Romania: 14; the Netherlands: 13; Belgium, the Czech Republic, Greece, Hungary and Portugal: 12; Austria, Sweden and Bulgaria: 10; Denmark, Finland, Ireland, Lithuania and Slovakia: 7; Cyprus, Estonia, Luxembourg and Slovenia: 4; Malta: 3. This makes 345 votes in total

28/ With the exception of most agricultural issues, which are handled by the Special Committee on Agriculture

The work of this Committee is itself prepared by some 250 committees and working groups consisting of delegates from the Member States.

The representation bodies also represent and uphold national interests at European level.

The Council of the European Union should not be confused with the **European Council**, which was given formal status by the Single European Act in 1987. Its origins date back to 1974 when the EU heads of state and government began holding regular meetings. The European Council meets, in principle, four times a year, in particular at the end of each six-month Presidency, and is chaired by the head of state or government currently holding the Presidency of the Council of the European Union. It is composed of the heads of state or government of the Member States, the President of the Commission and the foreign ministers. The President of the Parliament addresses every European Council.

It does not adopt legislation, strictly speaking, but draws conclusions which guide and are then reflected in the decisions of the Council (of Ministers) of the European Union.

With the Treaty of Maastricht, the European Council officially became the initiator of the Union's major policies and was empowered to settle difficult issues on which ministers (meeting in the Council of Ministers) failed to agree.

It also addresses current international problems via the common foreign and security policy (CFSP), which aligns opinion within the EU 27 and gives it a common diplomatic voice.

The European Council is the Union's highest authority in political terms. Some would like it to become a true European government, with one of its members made responsible for representing the Union in its external relations.

The European Parliament is the only truly democratic European institution, since from 1979 onwards its members have been elected every five years by direct universal suffrage. Parliament thus expresses the democratic will of the Union's 492.8 million citizens and represents their interests in discussions with the other EU institutions. The current Parliament has 785 members²⁹ who, apart from a group of 23 people, belong to eight political groups³⁰.

The Parliament has three main roles:

- it shares legislative power with the Council through the codecision procedures;
- it exercises democratic supervision over the other EU institutions, in particular the Commission. It has the power to approve or reject the nomination of Commissioners, including the President, and the right to censure the Commission as a whole;
- it shares responsibility for the EU budget with the Council and can therefore influence EU spending. It adopts or rejects the budget in its entirety.

The **codecision**³¹ procedure is defined in Article 251 of the Treaty.

In the codecision procedure, the Commission submits proposed legislation to the Council and the Parliament. The two institutions read and discuss the proposal twice in turn (unless they manage to reach an agreement on the Commission's proposal after the first reading). If they

29/ Germany: 99; France, Italy, the United Kingdom: 78; Poland and Spain: 54; Romania: 35; the Netherlands: 27; Belgium, the Czech Republic, Greece, Hungary, Portugal: 24; Sweden: 19; Austria and Bulgaria: 18; Denmark, Finland and Slovakia: 14; Ireland and Lithuania: 13; Latvia: 9; Slovenia: 7; Cyprus, Estonia and Luxembourg: 6; Malta: 5. The Parliament will have 786 members as from 2007 as a result of the enlargement to include Bulgaria (18) and Romania (36)

30/ European People's Party (Christian Democrats) and European Democrats (EPP-ED): 266 members; Party of European Socialists (PES): 218 members; Alliance of Liberals and Democrats for Europe (ALDE): 106 members; Greens/European Free Alliance: 42 members; European United Left/Nordic Green Left (GUE/NGL): 40 members; Independence/Democracy (IND/DEM): 23 members; Union for Europe of the Nations (UEN): 44 members; Identity, Tradition, Sovereignty (ITS – Extreme Right): 20; 23 non-attached members

31/ The Maastricht Treaty, which was signed in 1992, established the codecision procedure and applied it to 23 areas. In 2000, the Treaty of Nice added a further seven

cannot agree, the text is put before a conciliation committee, composed of equal numbers of Council and Parliament representatives. The Commission representatives also attend the committee meetings and take part in the discussion.

If the committee reaches an agreement, the adopted text is sent back to Parliament and the Council for a third reading so that they can formally adopt it as law.

If no agreement can be reached, the proposal is not taken any further.

For social matters, including those pertaining to social protection, codecision is used in the following areas:

- banning discrimination based on nationality;
- freedom of movement and residence, in particular for workers and their families;
- social security for migrant workers;
- employment;
- combating social exclusion;
- equal opportunities and treatment;
- implementation of decisions regarding the European Social Fund;
- health and consumer protection.

In particular, the Council consults the Parliament on:

- discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
- asylum, immigration and other policies related to the free movement of people.

(If appropriate, the Council may also consult other bodies such as the European Economic and Social Committee and the Committee of the Regions).

This procedure is known as **consultation**. It is compulsory where the legal basis of the proposed legislation requires it. The proposal can then only be adopted as law if the Parliament has issued an opinion.

The procedure used for the structural and cohesion funds is that of **assent**. The procedure is the same as in the case of consultation, except that Parliament cannot amend a proposal: it must either accept or reject it as a whole. Acceptance (assent) requires an absolute majority of the votes cast.

Codecision is the procedure adopted for matters relating to supplementary social protection schemes, above all supplementary pensions. In fact, continuing case law of the European Court of Justice has always considered supplementary pensions to constitute part of the wage, i.e. deferred pay³².

Another key player in decision-making on social security, particularly on health, is the **European Court of Justice**.

The Court of Justice is made up of 27 Judges and 8 Advocates-General.

Should the Court so request, the Council may, acting unanimously, increase the number of Advocates-General. The Judges and Advocates-General are appointed by common agreement of the governments of the Member States and hold office for a renewable term of six years. They are chosen from legal experts whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are of recognised competence. The Judges select one of their number to be President of the Court for a renewable term of three years. The President directs the work of the Court and its staff and presides at the hearings and deliberations of major bodies of the Court. The Advocates-General assist the Court in its task. They deliver, in open court and with complete impar-

^{32/} See in particular the judgement of 25 May 1971, *Defrenne/Belgian State* (80/70); the judgement of 9 February 1982, *Garland/British Rail Engineering* (12/81); the judgement of 13 May 1986, *Bilka-Kaufhaus/Werber von Hartz* (170/84); and the judgement of 17 May 1990, *Douglas Harvey Barber/Guardian Royal Exchange Assurance Group* (262/88)

tiality and independence, opinions in all cases, save as otherwise decided by the Court where a case does not raise any new points of law. Their duties should not be confused with those of a public prosecutor or similar body.

The Court of Justice may sit as a full Court, in a Grand Chamber (13 Judges) or in chambers of three or five Judges. It sits in a Grand Chamber when a Member State or a Community institution that is a party to the proceedings so requests, or in particularly complex or important cases. Other cases are heard by a chamber of three or five Judges. The Presidents of the chambers of five Judges are elected for three years; the Presidents of the chambers of three Judges for one year. The Court sits as a full Court in the very exceptional cases exhaustively provided for by the Treaty (for instance, where it must compulsorily retire the European Ombudsman or a Member of the European Commission who has failed to fulfil his/her obligations) and where the Court considers that a case is of exceptional importance. The quorum for the full Court is 15.

► DECISIONS ON HEALTH CARE AND HOSPITALISATION

As a result of its position, and however surprising this may seem at first sight, the European Court of Justice has, in fact, done a great deal to improve freedom of movement for patients throughout the European Union and the free provision of health care.

Although under Regulation 1408/71³³ people moving within the European Union have always been able to benefit from necessary health care, this possibility was always made subject to prior authorisation from the social protection body in the patient's country of origin³⁴, except in emergencies or in the cases established under Regulation 1408/71.

The Kohll and Decker judgements³⁵, handed down by the Court of Justice in 1998, and subsequent similar judgements significantly modified this rule.

As a result, the Court considered that medical care, irrespective of whether it was provided in a hospital environment or outside such an environment, was a 'service' within the meaning of the Treaty, regardless of the way in which the Member States organise and finance their social security systems.

The requirement of an authorisation for the reimbursement of medical costs incurred in another Member State was unfounded since it is an obstacle to the free provision of services³⁶.

As regards hospital services, the Court indicated that in view of the necessary planning in order to ensure sufficient and permanent access to a balanced range of high quality hospital treatment, as well as to control costs and prevent any wastage of financial, technical and human resources, the requirement for authorisation was justified³⁷ but that grounds for any refusal must be given³⁸.

However, in a recent judgement³⁹, of 16 May 2006, the Court held that prior authorisation could not be refused when the "waiting period" in the patient's State of origin was too long.

In all cases, the reimbursement of incurred medical costs is limited to the cover guaranteed by the health insurance scheme in the Member State where the patient is insured.

Another instrument has recently been set up in order to facilitate the free movement of European citizens: **the European Health Insurance Card**.

33/ See Sheet 6

34/ See Article 22 of Regulation 1408/71

35/ Kohll (C-158/96) and Decker (C-120/95) judgements

36/ From: "Accès aux soins de santé dans un marché unique: impact sur les systèmes légaux et complémentaires" (p. 11), February 2005, Yves Jorens, Michael Courcheir, Filip Van Overmeiren, University of Ghent, Department of Social Law.

37/ Vanbraekel (C-368/98); Geraets-Smits/Peerbooms (C-157/99); Müller-Fauré/Van Riet (C-385/99); Inizan (C-56/01); Leichtle (C-8/02)

38/ Vanbraekel (C-368/98)

39/ Watts (C-372/04)

Since 1 June 2004, European citizens moving within the European Economic Area (i.e. the European Union, Norway, Iceland and Liechtenstein) and Switzerland, for private or professional reasons, have (or will have) a European Health Insurance Card, which will simplify the procedure when receiving medical assistance during their stay in a Member State.

The card may contain a chip or a magnetic strip.

The European Health Insurance Card replaces forms:

- E 111 and E 111 B (used by tourists);
- E 110 (used by international carriers);
- E 128 (used by workers posted to another Member State and by students);
- E 119 (used by unemployed persons looking for a job in another Member State).

Each Member State is responsible for producing and distributing the European Health Insurance Card in its territory. The shape of the card is identical and it has the same technical specifications in all Member States, which enables health care providers to recognise the card immediately.

Member States have the choice of either integrating the technical specifications of the new card into their existing national card, or issuing a separate card.

This card makes it easier to access health care on the spot by ensuring that care is provided in accordance with the legislation in the host Member State (e.g. free access to medical care). It also ensures that if the patient has had to pay for health care, medical costs are reimbursed in the place where the care was provided or very soon after the patient returns to their country of origin. The European Health Insurance Card or an equivalent document is issued on request.

► DECISIONS ON SUPPLEMENTARY PENSIONS

On 21 September 1999, the European Court of Justice handed down some important judgements in three cases on supplementary pension schemes. These were the related Albany International BV/Stichting Bedrijfspensioenfonds Textielindustrie case⁴⁰ and the Brentjens'handelsonderneming BV/Stichting Berdrijfspensioenfonds voor de Handel in Bouwmaterialen case⁴¹, and the Maatschappij drijvende Bokken BV/Stichting Pensioenfonds voor de Vervoer en Havenbedrijven case⁴².

Two questions were put to the Court. Firstly, the compatibility of compulsory affiliation to a Dutch sectoral pension scheme with competition rules and secondly, whether these bodies could be regarded as undertakings within the meaning of the Treaty.

On the first question, the Court mainly based its judgement on the concept of 'service of general economic interest'. It ruled that these supplementary pension schemes based on the principle of capitalisation, which were established by collective agreements and then made compulsory, were not consistent with the principle of free competition. In other words, public authorities could make affiliation to a sectoral pension fund compulsory at the request of organisations representing employers and workers in a given sector.

However, it ruled that such pension funds were undertakings within the meaning of Articles 85 et seq. of the Treaty, despite the fact that they were non-profit making and despite the forms of solidarity they applied, because they mainly functioned on the basis of capitalisation and because the amounts of the benefits depended, amongst other things, on the performance of financial investments.

40/ C-67/96

41/ C-115/97 to C-117/97

42/ C-219/97

However, Articles 82 EC and 86 EC do not preclude the public authorities from conferring on a pension fund the exclusive right to manage a supplementary pension scheme in a given sector. Although the Court reserved the right to verify the concept of service of general economic interest on a case by case basis, these judgements as a whole, i.e. not just the conclusions, are interesting since they involve the Court's affirmation of a certain number of principles and several acknowledgements.

An initial analysis reveals at least five.

Firstly, based on Article 3(g)(i) of the EC Treaty, the Court highlighted that activities of the Community include "a policy in the social sphere" and that Article 2 EC states that the Community has a task "to promote throughout the Community a harmonious and balanced development of economic activities" and "a high degree of employment and of social protection".

The Court also acknowledged that creating a supplementary pension scheme seeking to guarantee a certain level of pension for all workers in a sector contributes directly to improving one of their working conditions, namely remuneration. This reaffirmed the principle that these types of pensions can be considered as deferred pay.

The Court recognised that pension funds may, under certain circumstances, be considered as an element of a State's social policy.

In these three cases, the Court confirmed the ability and the role of the social partners in concluding and implementing agreements between management and labour.

Lastly, the Court reaffirmed the primacy of social agreements concluded between the partners over all other considerations, including those pertaining to free competition. It stated that "the social policy objectives pursued by such agreements would be seriously undermined if management and labour were subject to Article 85(1)", i.e. the article which prevents any agreement or understanding with the aim of preventing, restricting or distorting competition within the common market.

It also added: "It therefore follows from an interpretation of the provisions of the Treaty as a whole which is both effective and consistent that agreements concluded in the context of collective bargaining between social partners in pursuit of such objectives must, by virtue of their nature and purpose, be regarded as falling outside the scope of Article 85(1) of the Treaty."

KEY BODIES: THE SOCIAL PROTECTION COMMITTEE (SPC)

In the Communication of 14 July 1999 entitled "A concerted Strategy for Modernising Social Protection"⁴³, the European Commission suggested strengthening cooperation in the area of social protection by setting up a group of high-level officials.

In the Council conclusions of 17 December 1999 on the strengthening of cooperation for modernising social protection, the Council approved the Commission's proposal to set up such a group.

A High Level Group on Social Protection was therefore temporarily set up, composed of two delegates from each Member State. The Lisbon European Council gave this group of high-level officials two priority tasks:

- to compile a study on the future of social protection from a long-term perspective, giving particular attention to the sustainability of pension systems, and;
- to become involved in setting appropriate objectives and establishing indicators with a view to supporting the EU Member States in their efforts to promote social integration.

To ensure that this dual task was accomplished, the Council decided (decision of 29 June 2000⁴⁴) to replace the temporary group of high-level officials with an advisory committee to both the Commission and the Council. This Committee would be on an equal footing with existing advisory committees, such as the Employment Committee (EMCO) and the Economic Policy Committee (EPC), with which it would collaborate closely.

The Committee's tasks were clarified and expanded following the Treaty of Nice, Article 144 of which set up the Committee, and a new decision on the Committee was taken by the Council on 4 October 2004⁴⁵.

The Committee may be given "other work at the request of the Council or the Commission" or take on other work "on its own initiative", in addition to its normal tasks (monitoring the social situation and the development of social protection policies in the Member States and the Community and facilitating the exchange of information, experience and good practice between the Member States).

Moreover, the new Council decision states that, in addition to the appropriate contacts it should establish with the social partners, the Committee should also make contact with non-governmental social organisations whilst taking account of the respective roles and responsibilities of the various players in the sphere of social protection.

It is also obliged to keep the European Parliament informed of its activities.

In addition to the two delegates appointed by each Member State, the Social Protection Committee includes two members of the Commission.

The Committee elects a chairperson who holds office for a two-year non-renewable period.

The Chairperson is aided by a bureau consisting of:

- the Commission;
- two vice-presidents elected for two years;
- and two further vice-presidents: one representing the country currently holding the Presidency of the Union and another from the country that will hold the next Presidency.

43/ (COM 1999 (347) final

44/ (2000/436/CE)

45/ (2004/689/CE)

The Committee's Secretariat is provided by the Commission.

The Committee established an Indicators subgroup to work on the development of indicators and statistics in support of its tasks.

The Committee's work since its establishment has been largely determined by the goal of European socio-economic progress set at the Lisbon European Council of March 2000: "to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion."

This, followed by mandates from subsequent European Councils, gave top priority to:

- social inclusion;
- adjustment and sustainability of pensions;
- 'making work pay';
- rationalising open coordination in the area of social protection.

Studies have therefore been conducted on all these topics and have resulted in documents and opinions from the Committee which are available on its website⁴⁶.

The same applies to the area of health care and long-term care.

The ETUC believes that the creation of a Social Protection Committee is important if the construction of a social Europe is to continue to make progress, and is also important for achieving an approach to social protection systems that is based on more than economic criteria. Before the SPC was created, decisions on social protection were not taken by the social affairs ministers but by the economic and finance ministers (ECOFIN) via the Economic Policy Committee (EPC). The SPC now enables social affairs ministers, through their representatives, to take part in discussions that concern them! Although the Economic Policy Committee has clearly retained some of its prerogatives in this area, at least now decisions are taken jointly by the two Committees.

It should also be noted that the bureau of the Social Protection Committee meets regularly with the social partners, who are kept up to date with the Committee's work.

The full Committee has already held 3 meetings with the social partners, and they are about to be institutionalised, namely on the basis of one meeting per month.

⁴⁶ http://www.europa.eu.int/comm/employment_social/social_protection_committee/index_fr.htm

KEY BODIES (CONT.): THE ECONOMIC POLICY COMMITTEE (EPC)

Whilst the Economic Policy Committee (EPC) is not directly involved in the management or organisation of European social protection systems, it does play an important – indirect – role in their development.

The Economic Policy Committee (EPC) is provided for in Article 272 of the Treaty. It was set up in 1974 to improve coordination of the economic and budgetary policies of the Member States. With the entry into the third stage of EMU and the greater need for closer coordination of economic policies, the Committee's tasks and composition needed to be reviewed. This led to the Council decision⁴⁷ of 29 September 2002 on the composition and the statutes of the Economic Policy Committee.

The Member States, the Commission and the European Central Bank are represented in the EPC. Each of them appoints two members from among senior officials possessing competence in the field. Members of the Committee perform their duties in the general interest of the Community.

Opinions or reports drafted by the EPC are to be adopted by a majority of members if a vote is required. A report must then be drafted and include minority views. Where reports concern issues on which the Council may subsequently take a decision, members from central banks and the Commission may not participate in the vote.

The Committee is consulted by the Commission on the maximum rate of increase for non-compulsory expenditure of the general budget of the European Union (EU). It also delivers opinions at the request of the Council, the Commission or the Economic and Financial Committee or on its own initiative.

Proceedings of the Committee are confidential. However, its reports or opinions are made publicly available, unless there are overriding reasons to keep them confidential. Reports are published on the Committee's website.

In 2003, the composition of the Committee was revised, reducing the number of representatives of the Member States, the Commission and the ECB to two each, as a forward-looking measure. Previously, they could each appoint four representatives. This change was necessary to ensure that the Committee could function smoothly and to prepare for the EU's enlargement (on 1 May 2004).

As regards the Committee's tasks, the introduction of the euro has made closer coordination of economic policies and sustained convergence of the economic performances of the Member States all the more necessary. The Luxembourg European Council in 1997 called for enhanced coordination in the final stage of EMU. Closer monitoring of macroeconomic developments and of Member States' structural policies on labour, product and services markets is necessary if EMU is to function properly. Coordination aims to achieve sustained non-inflationary growth and foster job creation. The Committee assists the Council by providing economic analyses, opinions on methodologies and draft formulations for policy recommendations, particularly on structural policies. It focuses on:

- the functioning of goods, capital, services and labour markets (trends in wages, productivity, employment and competitiveness);
- the role and efficiency of the public sector and the long-term sustainability of public finances;

47/ 2000/604/CE

- the economy-wide implications of specific policies, such as those relating to the environment, to research and development and to social cohesion.

Article 99 of the Treaty provides for the formulation of broad economic policy guidelines (BEPGs), underpinned by a multilateral surveillance procedure. The Economic Policy Committee provides support for the formulation of the guidelines and contributes to the multilateral surveillance procedure. It also conducts regular country reviews focused in particular on structural reforms in Member States.

The Committee is also required to cooperate closely with the Employment Committee, in view of the closer coordination at European level required by a new Title in the Treaty, as well as with the Social Protection Committee. The opinions which it submits to the Council on social protection must be common opinions.

In the light of the EPC's tasks of:

- ensuring the long-term sustainability of public finances;
- and defining the broad economic policy guidelines which work towards this objective.

the Committee has put a considerable amount of pressure on the Member States to achieve those objectives.

It is against this backdrop that the reforms of pension systems have been undertaken, for instance.

Moreover, as a result of this, the work on the economic and budgetary issues raised by ageing populations is being supported by the Economic Policy Committee, and their economic and budgetary implications have been examined under the multilateral surveillance procedure.

The 2001 Broad Economic Policy Guidelines, adopted at the Gothenburg European Council in June 2001, state that "Member States need to develop comprehensive strategies for addressing the economic and budgetary challenges posed by ageing populations. Strategy measures might include reform of pension and health care systems, and care for the elderly, increasing the effective retirement age, stimulating higher labour supply participation, especially for older workers, setting-up and increasing public pension fund reserves and possibly encouraging the expansion of supplementary privately-funded pension schemes (pillars 2 and 3). These strategies should be presented in conjunction with stability and convergence programmes and be examined in the context of multilateral surveillance, taking due account of the subsidiarity principle".

It is also in the light of all this that reforms of the social protection systems have been undertaken in the majority of the new Member States and candidate countries (over and above the pressure put on them by the International Monetary Fund (IMF) and/or the World Bank).

Thus, social protection is addressed in two quite different (or even conflicting) ways, as reflected in the respective guidelines and texts adopted at European level by:

- the Social Protection Committee⁴⁸, which has a more 'social' approach owing to its composition;
- and the Economic Policy Committee, which as the guardian of financial and budgetary equilibrium has a broadly economic, if not budgetary approach.

Whilst the ETUC does not deny the importance of healthy and/or balanced finances, the approach should not pursue that sole objective.

In other words, the ETUC maintains that the problems linked to the construction of a social

48/ cf. Sheet 8

SHEET 9

• S O C I A L P R O T E C T I O N I N E U R O P E •

Europe are not primarily economic issues with social implications but social issues with economic implications.

And the ETUC insists that the two sides of this equation should never be inverted.

Moreover, in its current approaches to combating poverty and pensions reform, the EPC has been using a method along the lines of the one used for employment policy, i.e. the Open Method of Coordination (OMC).

KEY BODIES (CONT.): THE PENSIONS FORUM

One of the obstacles to the mobility of workers within the European Union concerns supplementary pension schemes, above all:

- the conditions for the acquisition of supplementary pension rights, and qualifying periods;
- rules on the transfer of rights;
- coordination of tax systems and mutual recognition of systems⁴⁹.

This is one of the findings of the report of the high-level group on the free movement of persons set up by the Commission on 14 January 1996 and chaired by Simone Veil.

The group was asked to identify the problems which persisted for the free movement of persons, evaluate them and propose solutions. In the report, submitted on 18 March 1997, the group made over 80 recommendations in the seven main areas of interest to EU citizens moving within the European Union. These were: entry and residence; access to employment; social rights and family status; tax and financial status; cultural rights; the specific situation of third-country nationals; and protection of the rights of individuals.

In its recommendations, the group suggested setting up a forum which would be responsible for examining the problems linked to mobility and supplementary pensions.

With a view to removing the obstacles, the Council gave an initial response in Council Directive 98/49/EC "on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community."

The directive set out certain rights and obligations for members of supplementary pension schemes and constitutes a very important step towards removing obstacles to free movement arising from supplementary pensions.

However, the directive does not cover what is often called portability of supplementary pensions, i.e. the possibility of acquiring pension rights (even for shorter periods of employment than the minimum vesting period required by the scheme or at the beginning of one's career) and keeping pension entitlements by transferring them to a new scheme when changing jobs. This certainly remains an obstacle to occupational mobility.

The Commission recognised the negative implications that a reduced portability of supplementary pension rights can have on the mobility of workers and therefore consulted the European social partners, twice⁵⁰, suggesting that they negotiate a European collective agreement in this field. However, the employers, unlike ETUC⁵¹, which was in favour, did not wish to go down the road of negotiations in this field, so the Commission decided to propose a legal framework containing minimum requirements with a view to improving the portability of occupational pension schemes⁵².

At the same time, the Commission also decided to follow the recommendations of the high-level group chaired by Ms Veil by setting up a Pensions Forum⁵³ (an advisory committee).

49/ *These issues relating to social security pension schemes have already been resolved as a result of the application of Regulation 1408/71 (see sheet 6)*

50/ SEC (2002) 597, 27 May 2002 and SEC (2003) 916, 12 September 2003

51/ *Response of ETUC to the Communication from the European Commission "Second phase of consultation of the two sides of industry aiming at improving the portability of the rights to complementary pension" (ETUC Executive Committee 16/10/2003)*

52/ *cf. sheet 6*

53/ *Commission Decision (C(2001) 1775)*

The Forum, which was officially established on 9 July 2001⁵⁴,

- is consulted by the Commission about any problems and developments at Community level affecting supplementary pensions;
- assists the Commission specifically with finding solutions to the problems and obstacles associated with cross-border mobility of workers in the area of supplementary pensions;
- cooperates with any other appropriate bodies or committees dealing with social and economic policy.

The Pensions Forum is made up of experts from national administrations, the social partners and bodies involved with supplementary pensions.

Since enlargement on 1 January 2007, the Forum has 57 members distributed as follows:

- one seat per Member State;
- four seats for the other EEA⁵⁵ member countries (one seat for the European Free Trade Association liaison office and one seat per country involved);
- 14 seats for the social partners represented at Community level (7 for ETUC, and 7 shared by the other partners UNICE, CEEP and UEAPME);
- 12 seats for the pension funds and other bodies active in this area: three for the European Federation for Retirement Provision (EFRP) and one each for the European Federation of Investment Funds and Companies (FEFSI), Association of European Cooperative and Mutual Insurers (ACME), International Association for Mutual Assistance (AIM), European Insurance Committee (CEA), European Association of Paritarian Institutions (AEIP), European Association of Public Sector Pension Institutions (EAPSPI), Groupe Consultatif des Associations d'actuares des pays de la CE (GCAACE), Banking Federation of the European Union (FBE) and the European Older People's Platform (AGE).

The term of office of members of the Pensions Forum is three years and is renewable.

The Pensions Forum elects a chair and two vice-chairs for a two-year term by a two-thirds majority of the members present. When the Forum was formally established, its members decided that:

- it would be chaired by the Commission representative (Directorate General for Employment and Social Affairs);
- representatives of the ETUC and UNICE would serve as its vice-chairs.

A Secretariat for the Pensions Forum and the working parties, which the Forum may decide to create on an ad hoc basis to carry out specific tasks, is provided by the Commission⁵⁶.

At the first meeting of the Forum, which was held on 13 January 2000, the social partners were keen to clarify the terms of their own participation and the role that they hoped the Forum would play.

The European Trade Union Confederation made the following declaration, which was supported by the employers:

- the Confederation hailed the Commission's resolve to involve all the relevant partners in discussions on pension funds, since this reflected a concern for transparency, at least on the part of DG Employment and Social Affairs. However, the ETUC wanted these concerns for transparency and involvement of the social partners in the discussions to be shared by the other DGs involved in the process;

54/ Its first meeting was held on 13 January 2000, before the official decision had been taken, but implemented the Commission's announcement made in its Communication of 11 May 1999 "Towards a single market for supplementary pensions" (COM (1999) 134 final)

55/ European Economic Area, since 2006 only 3 countries (Iceland, Norway and Liechtenstein)

56/ For details on the work of the Pensions Forum, see the Social Protection Newsletter on the ETUC website

- it was important to clarify the Forum's duties. In other words, there was no question of the Pensions Forum being given tasks that would duplicate existing work or, worse, turn it into a substitute for the existing dialogue bodies or committees working in this area;
- the group had enough work to do already dealing with highly technical and complex issues pertaining to supplementary pensions - in particular to the transferability of pension rights, vesting periods for these rights, cross-border membership and taxation - without weighing it down with other issues not in its remit. After all, there were competent ad hoc committees which dealt or could deal with these other issues, such as the Committee for mobility and migrant workers and the Social Dialogue Committee. The Commission itself had advocated that approach in its Communication "A concerted strategy for modernising social protection";
- if the number of topics was increased, we would risk losing sight of the main issue.

It is likely that the Forum will be consulted on technical aspects of the forthcoming proposed directive on the transferability of supplementary pension rights.

THE OPEN METHOD OF COORDINATION (OMC)

Following the Treaty of Amsterdam, the Member States introduced measures relating to the Union's policy on combating exclusion. These measures are described in Articles 136 and 137 of the Treaty.

During the Lisbon and Feira European Councils in March 2000, the Member States considered it necessary to include the fight against poverty and social exclusion amongst the Union's priorities. The heads of state and government therefore agreed that steps must be taken "to make a decisive impact on the eradication of poverty by setting adequate targets to be agreed by the Council".

The task arising from this European Council was to "implement an Open Method of Coordination" (OMC).

But what does that actually mean?

It is primarily a method, i.e. not a law, but a way of working together.

It is open, i.e. it does not impose anything and respects the nature, competences and practices of the Member States as well as the various governments' political and institutional frameworks. But it is also 'open' in the sense that it involves all the stakeholders (the social partners, civil society, etc.).

And lastly, it applies the approach of coordination i.e. each Member State cannot simply do as it pleases. Instead, the method aims to steer convergent measures towards common objectives that are, of course, freely defined, created and accepted by the Member States.

The OMC is therefore intended to be a flexible method of governance that supplements the existing Community method and other procedures based on the Treaty, such as the broad economic policy guidelines (BEPGs) and the European Employment Strategy (EES), which remain key instruments of the Community.

Moreover, this method respects the sovereignty of the Member States as well as the principle of subsidiarity. It does not allocate new competences to the Union, nor does it interfere with the internal running and organisation of the Member States in the policy areas where this method is applied.

More specifically in the social protection sphere, it aims to:

1. define common objectives for the European Union; these are defined in the Council;
2. include the EU objectives in national and/or regional strategies by jointly compiling National Action Plans (NAPs) in dialogue with all stakeholders (social partners, civil society, etc.);
3. establish common indicators in order to measure progress made and compare good practices;
4. publish reports, together with the Social Protection Committee (SPC)⁵⁷, and based on a peer review as a means of analysing and evaluating the National Action Plans;
5. draw up a Community action programme to promote policy cooperation and transnational exchange of learning and good practice.

The OMC is used in three areas of social protection:

- social inclusion;
- pensions;
- health care and long-term care.

⁵⁷/ See sheet 8

► SOCIAL INCLUSION OMC

The key elements in the Open Method of Coordination on social inclusion are:

- common objectives on poverty and social exclusion which were agreed at the Nice Summit in December 2002 and were revised at the Employment, Social Policy, Health and Consumer Affairs Council in December 2002;
- National Action Plans against poverty and social exclusion: the first two yearly plans were adopted by the Member States in June 2001. A second round of plans followed in July 2003;
- joint Reports on Social Inclusion and regular monitoring, evaluation and peer reviews;
- indicators intended to provide a way of monitoring progress and comparing best practices (report by the Social Protection Committee of October 2001);
- a Community action programme to promote cooperation between the Member States in their fight against social exclusion (Community action programme to combat social exclusion 2000-2006).

► PENSIONS OMC

The Lisbon European Council called for cooperation between Member States regarding "the future evolution of social protection over the long term, focusing on the sustainability of pensions systems at different periods up to 2020 and beyond". Following further mandates from later European Councils, it was decided at the Laeken European Council in December 2001 to apply the Open Method of Coordination to pensions policy. The Social Protection Committee works jointly with the Economic Policy Committee on pensions.

The key elements in the Open Method of Coordination on pensions are:

- objectives and working methods on pensions should be in keeping with the Open Method of Coordination, according to a report adopted by the Council in December 2001 and endorsed at the Laeken European Council. Three major objectives were set: adequacy of pensions (i.e. a level of pensions enabling people to have a decent standard of living and preventing pensioners from sinking into poverty); financial sustainability of pensions (i.e. pensions guaranteed on a long-term basis); and modernisation of pension systems (i.e. systems that take account of new family structures and new types of atypical employment contracts such as fixed-term, temporary and part-time contracts);
- National Strategy Reports on adequate and sustainable pensions, submitted by the Member States in September 2001 and then again in July 2005;
- Joint Council/Commission report on adequate and sustainable pensions agreed by the Council in March 2003 and endorsed by the Brussels European Council.

► HEALTH CARE AND LONG-TERM CARE OMC

In June 2001, the Gothenburg European Council, in its consideration of what is needed to meet the challenges of an ageing society, called for work on developing EU-level policy orientations in the field of health care and care for the elderly. The Commission adopted a Communication on 5 December 2001⁵⁸.

Based on this Communication, the Barcelona European Council invited the Commission and the Council to examine more thoroughly the questions of access, quality and financial sustainability of systems for healthcare and long-term care of the elderly. For this purpose, a questionnaire was submitted to the Member States by the Social Protection Committee (SPC)⁵⁹. A Joint Council/Commission report was drawn up based on their replies, which was endorsed by the Brussels European Council of Spring 2003.

58/ COM (2001) 723 final

59/ SPC/2002/APR/O/EN/rev 1

Finally, the Commission published a new Communication⁶⁰ on 21 April 2004, entitled “Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the open method of coordination”, in which it proposed to extend the “open method of coordination” to the health and long-term care sector, in order to establish a framework favouring the exchange of experiences and of best practice in the long-term care sector, in this way supporting Member States in their reform efforts. In this Communication, the Commission reminded the Member States of the three objectives which had already been adopted by the Barcelona European Council of March 2002:

- accessibility of care for all, based on fairness and solidarity;
- high-quality health care for the population which keeps up with medical advances and the emerging needs associated with ageing and is based on an assessment of the health benefits of such care;
- long-term sustainability of this care and aiming to make the system as efficient as possible.

These three major objectives were then broken down into several sub-objectives in this Communication.

The Member States agreed on the joint objectives, and in March they submitted interim reports covering the challenges facing their systems at national level, current reforms and medium-term policy objectives (including statistical data and, where relevant, quantified objectives).

In 2006, this should lead to an initial series of development and reform strategies for health care and long-term care in the period 2006-2009.

The measures taken by Member States to achieve the common objectives have been incorporated into the new-style report on social protection and social inclusion, written in the framework of the “streamlining” of the OMC process (see next paragraph).

► 'STREAMLINING': TOWARDS ENHANCED AND SIMPLER COORDINATION

In May 2003, the Commission adopted a Communication entitled “Strengthening the social dimension of the Lisbon strategy: Streamlining open coordination in the field of social protection”⁶¹.

The Communication makes proposals for the reorganisation of policy cooperation on the different strands of social protection (pensions, social inclusion, health care and making work pay). The aim of the Communication is twofold: to enhance the visibility of social protection within the Lisbon strategy by creating better links with other coordinating processes such as the Broad Economic Policy Guidelines and the European Employment Strategy (EES); and to create better internal synergies between work on the different aspects of social protection.

As soon as the Communication was published, it was discussed in the SPC in June and at an Informal Social Affairs Council in Varese in July. The SPC adopted an opinion at its September meeting. This was then endorsed by the Council of Ministers on 20 October 2003.

An initial streamlining process for economic and employment affairs has already been implemented based on a three-yearly cycle. This proved necessary as a result of the socio-economic strategy defined during the Lisbon European Council.

Economic policy coordination is organised within the framework of the Broad Economic Policy Guidelines (BEPGs), multilateral surveillance (aimed at assessing the implementation of the BEPGs)

60/ COM(2004) 304 final

61/ COM (2003) 261 final. This Communication also indicates the steps to be taken in the transition to streamlining in 2006 (Annex I); outlines the implementation of streamlining during 2006-2009 (Annex II); and shows how streamlined social protection will function alongside the streamlined BEPGs and EES in the period after 2006 (Annex III)

and the Stability and Growth Pact. As for employment policy coordination, this is organised within the framework of the European Employment Strategy (EES) and the European Employment Policy Guidelines (EEPGs) - which set out common objectives and priorities for employment policies and which are put into practice nationally through National Action Plans (NAPs). The overarching objectives are full employment, quality of work and the promotion of social cohesion and inclusion.

This streamlining has been helpful, but due to the major expansion in the number of different procedures concerned with coordinating economic and related policies, the need to better streamline the Open Method of Coordination (OMC) in the field of social protection is clear.

The OMC was regarded by the Lisbon European Council as a suitable mechanism for coordinating and taking forward work in the fields of social inclusion and pensions, that had allowed progress to be made in these areas. Health care and long-term care were then added.

However, in its Communication, the Commission argued that the currently segmented organisation of work should be replaced, and future work brought within a unified structure covering all aspects of social protection and organised, in principle, in three pillars focusing on the three policy areas of social inclusion, pensions and health and long-term care.

In order to establish a streamlined approach to integrated policy cooperation for the three pillars of social protection policy (social inclusion, pensions and health and long-term care), the Commission proposes that the set of objectives to be achieved be reviewed and replaced by the Council in 2006⁶², acting on a proposal from the Commission. The new set of common objectives should be defined under the Lisbon strategy and closely connected with the BEPGs and the European Employment Policy Guidelines, which will be adopted in 2006. Progress achieved within the OMC in the field of pensions should also be examined in 2006.

Common objectives will replace the separate series of existing objectives for each area as from 2006 and will cover three years up to 2009. They should include a limited number of more general cross-cutting issues, such as gender mainstreaming.

The key instrument of the new streamlined process will, as from 2005, consist of a Joint Social Protection Report, drawn up by the Commission and the Council, which will assess progress made across the full range of common objectives. This report will replace the "Social Protection in Europe Report" provided for under the Decision establishing the Social Protection Committee. In 2006, Member States will feed into the preparation of the Joint Social Protection Report, setting out their strategy for attaining the common objectives. In 2007 and 2008, the reports submitted will focus on the progress made in implementing the strategies. From 2007, national reports will replace the NAPs on social inclusion and the National Strategy Reports on pensions.

The big challenge for the new streamlined social protection process is to reflect progress in a transparent and effective way. Therefore, it is essential to establish an agreed set of common indicators. This requires a commitment from Member States to develop such key instruments as ESSPROSS⁶³ (expenditure on the different branches of social protection), SILC⁶⁴ (the annual Community-wide survey of the income and living conditions of households) and SHA⁶⁵ (system of health accounts).

The period of 2003-2006 has been used to prepare the conditions for launching the new process.

62/ In 2006, the second round of the three-year cycle for the coordination of economic and employment policies will be launched at the same time as the new streamlined objectives for social protection

63/ European System of Integrated Social Protection Statistics, compiled by the Statistical Office of the European Communities (EUROSTAT)

64/ Community-wide Survey on Income and Living Conditions

65/ System of Health Accounts

INTERNATIONAL SOCIAL SECURITY INSTRUMENTS: THE INTERNATIONAL LABOUR ORGANISATION (ILO) CONVENTIONS

The International Labour Organisation was created in 1919, at the end of the First World War, at the time of the Peace Conference which convened first in Paris, then at Versailles. The ILO Constitution was written between January and April 1919 by the Labour Commission, which was set up by the Peace Conference. The Commission was composed of representatives from nine countries, Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, the United Kingdom and the United States, under the chairmanship of Samuel Gompers, head of the American Federation of Labour (AFL). It resulted in a tripartite organisation, the only one of its kind bringing together representatives of governments, employers and workers in its executive bodies. The ILO Constitution became Part XIII of the Treaty of Versailles.

The ILO was set up in Geneva in the summer of 1920. It is a specialised agency of the United Nations and deals with all matters relating to the world of work and the related economic and administrative issues (workforce organisation, labour administration, social security, vocational training, productivity and so on).

The first annual International Labour Conference, composed of two representatives from the government, and one each from employers' and workers' organisations from each Member State, met in Washington on 29 October 1919. It adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, the minimum age and night work for young persons in industry.

After the Second World War, the General Conference of the International Labour Organisation met in Philadelphia (20th session) and on 10 May 1944 it adopted a Declaration defining the Organisation's aims and objectives as well as the principles which should guide the policies of its members.

The ILO is composed of three main bodies: the General Conference, the Governing Body and the International Labour Office.

The General Conference brings together government, trade union organisation and employer representatives from the various Member States. As the Organisation's supreme body, it establishes ILO policies and then usually converts them into Conventions and Recommendations. The ILO, via a tripartite Conference committee and an independent committee of experts, monitors the Conventions ratified by the countries to ensure they are applied. Each signatory must submit an annual report on the application of these Conventions. Complaints may be lodged against any member not applying a Convention which it has ratified, prompting an investigation by a Commission of Inquiry. Together, the Conventions and Recommendations adopted by the ILO form the International Labour Code.

The International Labour Office publishes reports on work-related problems as well as a general report (Report of the Director General, which provides an overview of the ILO's work, takes stock of the changes in the economic and social situation around the globe and focuses on a topical issue). It also publishes the International Labour Review.

The ILO Conventions are international treaties, which means that they become binding once ratified by the Member States.

Its Recommendations are non-binding instruments - typically dealing with the same subjects as

Conventions - that set out guidelines for national policy and action.

The ILO has adopted more than 180 Conventions and 185 Recommendations covering a broad range of subjects. ILO Conventions have received in excess of 6500 ratifications.

The ILO Conventions on social security pertain:

- either exclusively to social security (ILO Convention No. 18 on Occupational Disease Indemnification);
- or only to certain aspects of social security (ILO Convention No. 175 on Part-Time Work, for example).

A distinction must also be made between the Conventions on social security:

- which cover all areas of social security (ILO Convention No. 102: the Social Security Convention);
- and those which only cover one or more specific areas (ILO Convention No. 121 on benefits in the case of employment injury and occupational diseases, ILO Convention No. 128: the Invalidity, Old-Age and Survivors' Benefits Convention).

The Member States may ratify the former whilst only agreeing to apply the obligations contained in the Convention to a limited number of areas of insurance. However, for the latter, the Member States must accept all the provisions contained in the Convention.

A list of these Conventions and information on their stage of ratification by the Member States can be found on the ILO website (www.ilo.org).

INTERNATIONAL INSTRUMENTS (CONT.): THE SOCIAL CHARTER, THE EUROPEAN CODE OF SOCIAL SECURITY AND THE COUNCIL OF EUROPE'S 'COORDINATION INSTRUMENTS' FOR SOCIAL SECURITY

The Council of Europe is an international organisation located in Strasbourg (France). Its main task is to boost democracy, bolster human rights and strengthen the rule of law throughout the area covered by its member states. The defence and promotion of these fundamental political values, which no longer fall within the framework of a country's domestic policy, is a concern common to all members.

The Council was created by ten countries (Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom) in the wake of the Second World War. During the first 40 years, i.e. after the Treaty of London was signed on 5 May 1949, the Council of Europe remained a Western European institution.

But by the mid 1980s, the Council of Europe had 23 member states and since 1989, when Central and Eastern European countries turned towards democracy, the Council of Europe has been their main port of call for European cooperation.

In 2005, 46 countries (including the 25 Member States of the European Union) are members of the Council of Europe and five countries have observer status: Canada, the Holy See, Japan, Mexico and the United States.

The Council of Europe has the following bodies:

- a decision-making body: the Committee of Ministers which groups together the foreign affairs ministers from the 46 member states;
- a deliberative body: the Parliamentary Assembly which has 630 members (315 representatives and 315 deputies) who come from the national parliaments in the 46 member states. The composition of each national delegation mirrors that of its national parliament;
- a voice for local democracy: the Congress of local and regional authorities of Europe which is composed of 313 representatives and 313 deputies. It has two chambers, one representing the local authorities and the other representing the regions. It is charged with strengthening democratic structures at local level and assisting fledgling democracies;
- the European Court of Human Rights which is made up of 45 judges and is located in Strasbourg. Since 1998, the Court has sat on a permanent basis. States and individuals, regardless of their nationality, may refer alleged violations by contracting states of the rights guaranteed in the Convention to this judicial institution established by the Convention. Its jurisdiction is compulsory for all contracting parties. It sits on a permanent basis, handles all the preliminary stages of a case and delivers judgements. The Court consists of a number of judges equal to the number of contracting states to the Convention.

Two of the Council of Europe's instruments concern social security.

► THE EUROPEAN SOCIAL CHARTER

The European Social Charter sets out rights and freedoms and establishes a supervisory procedure guaranteeing their respect by the "States Parties". All Europeans share these rights under the Charter and they affect every aspect of daily life, including housing, health, education, employment, legal and social protection, movement of persons and non-discrimination.

It is regarded as the counterpart to the European Convention on Human Rights. It protects fun-

damental social rights such as the right to work and vocational training, the right to fair pay and working conditions, the right to belong to a trade union and the right to medical and social assistance and social security.

It was signed in Turin on 18 October 1961 and entered into force on 26 February 1966.

An Additional Protocol to the European Social Charter added four further articles. This Protocol was open for signature by the member states of the Council of Europe on 5 May 1988 and entered into force on 4 September 1992.

The Charter was revised in 1996. This 'Revised Social Charter' entered into force on 1 July 1999 and updated and lengthened the list of guaranteed rights (eight new articles). It brings together, in one single document, the rights contained in the Charter in their amended form and those contained in the Additional Protocol.

A committee of fifteen independent experts - the European Committee for social rights, which is elected by the Committee of Ministers and attended by an observer from the International Labour Organisation, examines the reports submitted regularly by the member states. These reports outline how the member states are respecting the commitments they undertook by signing and ratifying the Charter. The Committee's remarks are referred to as conclusions.

Its conclusions are transmitted to the "Governmental Committee [of the Charter]" composed of representatives of the states having ratified the various Charters and attended by observers from the various social partners, including the ETUC, which analyses these conclusions from an "economic" and "social" angle. It may propose issuing a warning or recommendation to the defaulting state.

An Additional Protocol that made provision for setting up a procedure for collective claims was signed on 9 November 1995 and entered into force on 1 July 1998. The Protocol establishes a procedure for claims, should the member states having signed the Protocol not respect the commitments made in accordance with the Charter. The ETUC, in particular, as well as the national unions in the country in question are entitled to submit a collective claim. ETUC has also the possibility to formulate its observations on the claims. These claims are then examined within the Governmental Committee of the Charter. This Committee prepares the decisions on violations of the Charter (called recommendations) for the Committee of Ministers. When making complaints, it is therefore important that national unions get in contact with the ETUC, which sits on the Governmental Committee of the Charter.

When a member state signs and/or ratifies the Charter, it is not obliged to commit to all articles, but it must commit to at least ten (or 45 numbered paragraphs). At least five of these ten must belong to the seven articles contained in Part II, which form what is known as the hard core. These are Articles:

- 1 (the right to work);
- 5 (the right to organise);
- 6 (the right to bargain collectively);
- 12 (the right to social security);
- 13 (the right to social assistance);
- 16 (the right of the family to legal, social and economic protection);
- and 19 (the right of migrant workers and their families to protection and assistance).

Several paragraphs or articles in the European Social Charter of 18 October 1961 relate to social security:

In Part I⁶⁶ : paragraphs

66/ Part I of the Charter lists the rights and principles that the Member States recognise as their policy objectives: it is a kind of political declaration. The articles and paragraphs in Part II are compulsory

- 8: the right to maternity leave;
- 11: the right to protection of health;
- 12: the right to social security;
- 13: the right to social and medical assistance;
- 14: the right to benefit from social welfare services;
- 16: the right of the family to legal, social and economic protection.

These rights, which are set out as principles in Part I, are then included as more precise commitments in **Part II**. The numbering and the titles of the articles are the same as those in Part I. The above-mentioned articles therefore correspond to Articles 8, 11, 12, 13, 14 and 16 in Part II.

The Additional Protocol of 5 May 1998 added the right to social protection for *elderly persons* (Parts I and II, Article 4).

The Revised Social Charter (3 May 1996) added two new rights concerning social protection in its broader sense:

- the right to protection against poverty and social exclusion (Parts I and II, Article 30);
- the right to housing (Parts I and II, Article 31).

The minimum social security standards set out in the Social Charter reflect those contained in the Code (see below).

► THE EUROPEAN CODE OF SOCIAL SECURITY

The Code defines standards and fixes minimum levels of protection that the contracting parties must guarantee in areas such as medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit and occupational disease benefit, maternity benefit, invalidity benefit and survivors' benefit.

The Protocol entered into force on 17 March 1968.

The origins of the European Code of Social Security go back to the first session of the Parliamentary Assembly of the Council of Europe, which was held from 10 August to 8 September 1949. At this session, discussions mainly focused on ways to improve the standard of living for people who had survived the Second World War. Social security was held up as one of the ways of guaranteeing an adequate standard of living for Europeans.

However, it was not until 16 April 1964 that the Code and its Protocol (which encouraged the contracting parties to seek to attain a higher level of social security than the level established in the Code) were open for signature by the member states and not until 17 March 1968 that they entered into force.

The Code then went on to draw inspiration from ILO Convention 102⁶⁷, which brought together several ILO Conventions on social insurance that had been concluded before the war. The Code used the Convention as a model but developed it further and laid down higher standards.

The aim of the Code and its Protocol is to foster the development of social security in all the member states of the Council of Europe so that they can gradually attain the highest possible level of social security. The Code and Protocol lay down a series of minimum standards, which the States may of course exceed and which the contracting parties undertake to incorporate into their social security systems.

So although these instruments are not intended to unify the national social security systems,

^{67/} See sheet 12

they do recognise the need to harmonise them.

The European Code is composed of 14 parts and can be divided up into six main sections.

(1) **Part I** contains general measures and details of the ratification process. As with the Social Charter, States may ratify all of the nine social risks (referred to as contingencies in the Code) or choose the ones that they wish to ratify, provided that they ratify at least six; medical care and old-age benefits are considered to be equivalent to two and three contingencies respectively. The Code and Protocol also fix minimum levels for the percentage of people living or working in the country who have to be covered by these contingencies.

(2) **Parts II to X** define the nine contingencies and the minimum standards that apply to them:

- medical care (Part II);
- sickness benefit (Part III);
- unemployment benefit (Part IV);
- old-age benefit (Part V);
- employment injury benefit (Part VI);
- family benefit (Part VII);
- maternity benefit (Part VIII);
- invalidity benefit (Part IX);
- survivors' benefit (Part X).

(3) **Part XI** deals with periodic payments (payment of benefits) and sets out three methods of calculating cash benefits as well as their minimum levels.

(4) **Part XII** (common provisions for all contingencies) lays down:

- the reasons why a benefit may be suspended (Art. 68);
- provisions governing appeals (Art. 69);
- the financing of social security (Art. 70);
- the administration of social security (Art. 71).

(5) **Part XIII** deals with the application of the Code, in particular:

- the time period covered by the Code (Art. 72);
- the procedure adopted (Art. 73 to 76).

(6) **Part XIV** covers the procedure for ratification.

The Protocol to the European Code of Social Security bolsters the minimum standards stipulated in the Code and is subdivided into four chapters:

- **Chapter I:** describes the modifications made by the Protocol to the wording of the Code;
- **Chapter II:** stipulates that no state may sign or ratify the Protocol or contribute to it unless it has also signed or ratified the Code;
- **Chapters III and IV:** specify when and how the Protocol will enter into force.

The (Revised) European Code of Social Security of 6 November 1990.

The Revised Code has three aims:

- to bolster the standards, boost the cover and increase the minimum amounts laid down in the Code of 1964;
- to introduce greater flexibility in view of the new challenges faced by the States;
- to promote a gender neutral approach to the entitlements of beneficiaries.

Unlike the previous Code, the revised Code is a single document. In other words, it is not supplemented by a Protocol stipulating a higher level of standards.

Although the revised Code is virtually identical to the previous one in terms of structure, it has 15 parts instead of 14. In particular, a **Chapter XIV** has been added that sets up a mechanism allowing the stipulations of the (Revised) Code to be amended without a new Code having to be drawn up.

► THE COUNCIL OF EUROPE'S COORDINATION INSTRUMENTS FOR SOCIAL SECURITY

Finally, in addition to the Council of Europe's harmonisation instruments for social security, we should also mention the coordination instruments for migrants, i.e. people who move to another country to live or work. They ensure that migrants receive equal treatment, i.e. that they receive the same benefits under the same conditions as the nationals of the host country. However, this right to equal treatment is subject to certain conditions (duration of residence for example).

The following coordination instruments have been established:

- The *European Interim Agreement on Social Security Schemes Relating to Old Age, Invalidity and Survivors* (entered into force in 1954), which excludes death grants and sets the condition that these benefits are not granted under the terms of the law on accidents at work or occupational diseases;
- the *European Interim Agreement on Social Security other than Schemes for Old Age, Invalidity and Survivors* (also entered into force in 1954);
- the *European Convention on Social and Medical Assistance* (also entered into force in 1954), which basically covers those areas missing in the two previous interim agreements;
- the *European Convention on Social Security (entered into force in 1977)*. In terms of coordination, it goes beyond the principle of equal treatment by guaranteeing the principles of: 'uniformity of applicable legislation'; 'aggregation' of insured periods completed in the countries of the contracting parties so that conditions for the commencement of entitlement to social security in the host country can be calculated; and 'exporting' of benefits (receiving certain benefits abroad). Also, it does not distinguish between long-term and short-term benefits;
- the *Protocol to the European Convention on Social Security*, which extends the coverage of the Convention, by not restricting its scope to the nationals of a particular contracting party. Instead it extends it to include all people who are, or have been, subject to the legislation of one of several contracting parties as well as to the members of their families and their survivors.

SOURCES OF INFORMATION

European Trade Union Confederation:

<http://www.etuc.org>

European Union:

<http://europa.eu.int>

Council of the European Union:

<http://ue.eu.int>

Commission (DG Employment and Social Affairs):

http://europa.eu.int/pol/socio/info_en.htm

European Parliament:

<http://www.europarl.eu.int>

Social Protection Committee (SPC):

http://www.europa.eu.int/comm/employment_social/social_protection_committee/index_en.htm

Economic Policy Committee (EPC):

http://europa.eu.int/comm/economy_finance/epc/epc_en.htm

International Labour Organisation (ILO):

www.ilo.org

Council of Europe:

www.coe.int

Eurostat:

<http://europa.eu.int/comm/eurostat>

MISSOC (Mutual Information System on Social Protection in the Member States of the European Union and of the European Economic Area):

europa.eu.int/comm/employment_social/social_protection/missoc_en.htm



SOCIAL PROTECTION IN EUROPE

(folder revised in 2007)

CURRENT ISSUES AND DEBATES ON SOCIAL PROTECTION: SUPPORT FOR EDUCATIONAL TRAINING ACTIONS

- Chapter 1:** Public pension systems and financing of social systems
- Chapter 2:** Complementary social protection in the field of pensions
- Chapter 3:** Europe and health care
- Chapter 4:** Employment and unemployment
- Chapter 5:** Family benefits
- Chapter 6:** Main sources of information on the analysis and positions of the ETUC



Part 2 / Chapter 1

CHAPTER I

Public pension systems and financing of social systems

■ 1. – OBJECTIVES

1.1. - Prevention of poverty in old age

Work and earning capacity decrease with age. There comes a time when an individual has earned the right to retire and be granted sufficient resources for a decent life. Since the Industrial Revolution, one of the major social achievements has been the introduction of social security, of which old-age systems form a part.

Today, the ETUC believes that pension systems should no longer have the sole objective of preventing poverty among the elderly, but rather should also maintain the standard of living after retirement, in other words ensure “adequate” income, to use the formula taken from the objectives assigned to the “pension OMC”⁶⁸.

1.2. - Equity and solidarity in the framework of pay-as-you-go funding?

Public pension systems, also known as pensions paid by social security systems, have a special responsibility in guaranteeing this “adequate” income and preventing the risk of poverty in old age. They are funded on the basis of the pay-as-you-go principle⁶⁹ which involves intra- and inter-generational solidarity mechanisms. This solidarity is the basic principle. The elements of the pension system, such as guaranteed minimum pensions, basic pensions, capped benefits, etc., are examples of these mechanisms.

1.3. - Seeking a broad political consensus in developing and reforming pension systems, notably by involving the social partners

Pension systems must be viable not only in financial terms, but also in political terms. The latter depends on the existence of a broad political consensus among the main political parties, the unions and employer organisations on fundamental questions relating to the creation and development of national pension systems. The social partner organisations, and the unions in particular, strive to participate actively in all debates addressing the subject of pension systems and to become involved in the reforms to be implemented to strengthen them and ensure their sustainability. Several pension systems are also occupational. Unions therefore believe that they most authentically represent the specific interests of the worker or the individual employee when it comes to establishing pension rights. For the same reasons, the social partners have, in several countries, long contributed to the administration of public pension funds.

■ 2. – PRINCIPAL TYPES AND FINANCIAL STRUCTURES

2.1. - Development of the “three-pillar” pension

To keep pace with the expectations of the population and its need to maintain a high income level on retirement, systems providing “supplementary” income at the time of retirement have been developed. It is in this way that the “three-pillar” approach to pensions, to use the accepted terminology, has developed, even if this structure is far from being obvious in all the countries concerned.

68/ See Part 1, sheet 11

69/ Pay-as-you-go consists in evaluating the amount of pensions to be financed over a given period by actuarial means and using this to calculate the amount of contributions that will be necessary

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What is generally included under the heading “first-pillar pension” concerns obligatory public pension systems established by law. These days, the entire population and/or active population is “covered” in principle. Public pension systems often provide the majority of the retiree’s income.

Additional retirement income sources have developed alongside or in addition to this first pillar:

- either in connection with employment and occupational activity; these are “professional pension” schemes, to use the European terminology, or complementary pension schemes (2nd pillar);
- or individually and privately (3rd pillar).

These two types of additional income are studied in the following chapter (Part 2, Chapter 2: complementary social protection).

2.2. - Principal types of public pension schemes

Two main types of basic pension schemes exist in the Member States of the European Union:

- universal or national pension schemes, often called “Beveridgian” schemes. The right to the benefit is granted on the basis of citizenship or residence in the country. They are primarily funded by taxes. The major objective of these schemes is to guarantee a basic income or flat level of benefit for every person having reached retirement age.
- pension systems based on the principle of social insurance, often called “Bismarckian” systems. These are based on work history and work status. These systems cover the active part of the population. The rules are often different for employees in the public and private sectors and for self-employed workers. Benefits are proportional to income and aim to maintain the standard of living in retirement. The funding of these pension schemes, based on the principle of social insurance, rests essentially on payment of contributions. The contribution is divided between the company and the employee. As far as the latter is concerned, it is deducted directly from his or her gross pay. The amount of the pension depends on the salary received during one’s working life, according to rules defined by law.

2.3. - Method of funding

All public pension schemes are funded according to the pay-as-you-go principle. This manner of funding in fact rests on intra- and inter-generational solidarity.

- intra-generational solidarity with rights acquired “free” for the person concerned in cases of illness, unemployment, etc;
- inter-generational solidarity, because it is a system of distribution under which the contributions paid by the current active generation are distributed in the form of old-age benefits to the currently retired generation, according to actuarial methods⁷⁰.

Some states may top up this funding (particularly in pension insurance systems financed essentially out of wage contributions) by a subsidy to balance the scheme or because the system provides for “tripartite” funding (employee, company and state).

Some countries, such as Sweden, have introduced a certain degree of “capitalisation” in their obligatory basic scheme, establishing what might be called a “mixed” system. Thus, out of a total contribution of 18.5% based on earned income, replacement income and some allowances paid for young children,

- 16% of contributions go to finance retirement on a pay-as-you-go basis;
- 2.5% will go to capitalisation. The insured persons choose an investment manager for this part of the contributions.

^{70/} See note 69 above

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■ 3. – CHALLENGES**3.1. - The public pension system is an element of social cohesion and of national economic stability**

The viability of the social security system of pensions lies at the heart of the European debate on pension reform. The public pension system is an important element of social cohesion, but it has repercussions for public finances and for the rules of economic stability. Pensions represent more than 40% of total social protection expenditure in the European Union. The 27 Member States of the European Union, in the framework of the Open Method of Coordination in particular, have committed themselves to the same goal, namely, to construct and support pension systems offering adequate security to the elderly persons concerned. The challenge is to work out how to adapt and sustain a public pension system which offers adequate social security for the elderly at a time when the ratio of active to retired people will be particularly unfavourable. Some of the new Member States must also adapt their systems to the demands of political and economic transition.

3.2. - Unfavourable active/retired ratio due to unemployment and ageing of the population

One of the major problems of European pension systems is unemployment, because it directly affects the financial viability of public pension systems, and all the more so for pension systems whose funding rests on contributions from wages. Early retirement, implemented as a “social response” to the consequences of industrial restructuring on the labour market that led to massive job losses, is now used ever more frequently as an employment management tool to control the job market in the face of higher unemployment. Hence the major development of early retirement or anticipated pensions, at the beginning of the 1990s. As a consequence, contributory periods have been shortened, while periods of retirement have been extended. But this question also involves other issues. Discrimination against older workers on the job market limits the level of activity necessary to achieve the objectives of the Lisbon Strategy. Youth unemployment and the resultant delayed entry into the workforce also have long-term repercussions on social security.

This problem is accentuated by the issue of demography and more specifically that of population ageing, in particular with increasing life expectancy and the effect of the “pappy boom”⁷¹. And demographic projections for 2020 predict that the proportion of the population aged over 65 years – if the situation remains as it is – will reach 25%. The viability and durability of the pension system, but also healthcare systems, especially long-term care – called “dependence” in some countries – are called into question. Immigration into the EU can only be a partial solution to this problem. The answer seems to be to develop more jobs and more quality jobs, also easing the entry of the younger generations into the job market, an entry which is increasingly being made later rather than sooner. The organisation of work and technology must therefore be adapted to the ageing of the workforce.

3.3. - Changes to family and social structures

European societies are confronted with profound social changes. The ageing of societies, the evolution of family structures and the individualisation of family life are among the changes the social security system must address. This system must take account of the transformations of the job market, in particular with the development of flexible and atypical work. For all too often, these categories of “flexible” workers continue to be victims of discrimination and to be under-protected. Part-time workers or those on temporary employment contracts or who work at

⁷¹ The term “pappy-boom” denotes the arrival at retirement age of the cohorts born between 1945 and 1960 corresponding to the period of the “baby boom” and which was then followed, in many European countries, by a significant drop in the birth rate.

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home and workers on low incomes (lower than the official limit) thus are at a greater risk of old-age poverty, because

- on one hand, they are often excluded from complementary pension schemes;
- and, on the other hand, in “social insurance” schemes, they are victims of inequalities in working life which are perpetuated because the amount of the pension is proportional to the contributions paid (even if in several countries “minimum pensions” have been established to correct the effects, for these categories of employees, of the contributory nature of the existing systems).

Many of them are

- young people who are having trouble in entering the labour market and in getting the skills acquired through training recognised and validated;
- and women taking care of members of their family, who need to interrupt their working life wholly or partly to do so.

For all these categories of the population, the risk of social exclusion increases.

3.4. - Further challenges in the transition countries

The new Member States have been faced with the cost of economic and political transition, which has heightened the need for reform. The will for political change adds to the urgency of defining new principles for social security. Old notions of social justice and solidarity have been replaced by principles of individualisation of the social security risk on the basis of increased individual responsibility.

The debate on pension reform in the transition countries raises the problem of funding linked to the question of unemployment. Indeed, the loss of jobs in the formal sector reached 30% in the initial years of the transition. Most of the workers put out of work have permanently left the job market; others have become involved in the shadow economy, and therefore are not making their contributions. Requirements related to contributions have moreover often been ignored, for example through under-declaration of wages, sometimes tolerated by governments to boost big businesses. The resultant losses led to the reduction of benefits. In many cases, this problem remains unresolved.

■ 4. – REFORMS ALREADY IN PROGRESS

4.1. - The 1990s – the decade of pension reform

In order to be viable, the public pension system needs to constantly adapt itself to respond to new conditions and new needs. At the beginning of the 1990s, the policy of developing forms of early retirement, thus shortening the period in which contributions were paid and prolonging that of the pension, threatened the viability of the system. New elements and new trends were introduced into the arrangements for restructuring income protection for the elderly. The primary objective of these reforms was to be, in accordance with what was defined in the pension OMC⁷², to ensure “adequate” pensions, i.e. pensions of a level allowing their beneficiaries to live with dignity. But national, as well as European, political decision-makers, beyond the rhetoric, are focussing their priorities on the economic dimension of the problem under the guise of financial viability at a time when the population is ageing rapidly and where the active/retired ratio is undergoing certain changes.

Which means that, over the last few years, a series of pension reforms has been implemented all over Europe.

72/ cf. Part 1, sheet 11: Open Method of Coordination (OMC)

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4.2. - Similar solutions to similar problems

Similar approaches have been used to resolve similar problems. One of the common features of European pension reforms has been to raise the statutory retirement age, but also to introduce incentives to delay the actual age of going into retirement. Transitional periods in order to progressively equalise the eligibility of men and women also seem to be a common approach. Incentives for gradual and flexible retirement have been introduced. Conversely, the use of early retirement ought to be discouraged or even abolished.

Among the other measures implemented, the following may be highlighted:

- increasing the number of years of contributions required to claim rights on retirement;
- the trend, in pension systems based on social insurance, towards calculating the amount of the pension on the total wages received in the course of the career, and no longer on a number of years chosen as the basis of calculation (for example taking the average of the best twenty years of the career into account to establish the amount of pension);
- life expectancy, an element which is sometimes included in pension calculation or indexation formulas. The method of calculating the pension will depend on the income from contributions and the remaining life expectancy⁷³;
- the progressive reduction (so as to harmonise and align them with the pension scheme for insured persons in general⁷⁴) of special provisions, more advantageous in terms of results for the amount of the pension, relating notably to age and/or calculation of the pension, granted to certain groups of insured (some of them are sometimes referred to in certain countries as beneficiaries of “special schemes”. But these modifications also concern the retirement schemes for civil servants or certain categories of civil servants: army, police, etc.);
- the creation, too, by several countries of “reserve funds” to finance pension rights in public schemes for the period where the active/retired ratio could be most unfavourable. The new Member States have themselves, in some cases, also created similar reserve funds in the course of the process of privatising the economy (Slovenia).

■ 5. – VARIOUS POSITIONS ON PENSION REFORM:

5.1. - The World Bank’s position: Source: the policy document “Old-age income support in the 21st century: an international perspective on pension systems and reform”, February 2005.

The World Bank states that the importance of pension systems to the economic stability of nations and the security of their ageing populations is universally recognised. The Bank has been involved worldwide in pension reform in more than 80 client and donor countries and provided financial support for reform in more than 60 of them. The Bank’s approach is based on the concept that pension systems best manage risks of old-age security through diversification and some pre-funding of benefit obligations. The potential for funding to contribute to economic efficiency and growth is central to its support of pension system design. A range of choices can help policy makers to achieve effective old-age protection in a fiscally responsible manner: 1- a non-contributory zero pillar that provides a social pension for minimal social protection, 2- a first-pillar contributory system to replace a portion of income after retirement, 3- a mandatory second pillar with individual savings accounts, 4- a voluntary third pillar that can be either of the defined benefit or defined contribution type, individual or employer sponsored, 5- informal intra-family or intergenerational sources of financial or non-financial support to the elderly (including access to health care and housing). Recently the World Bank has been more concerned with basic income provision to the most vulnerable elderly and with market-

^{73/} In this case, in Sweden for example, one speaks of “notional accounts”

^{74/} This does not preclude conditions of age or length of contributory period, or the hardship of certain occupations, from being taken into account

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based, consumption-smoothing instruments within and outside mandated pension schemes. The Bank admits the need to introduce the multi-pillar model sequenced and tailored to the initial conditions in a country. The World Bank has been instrumental in all pension reforms in European transition countries. The 2005 report states that so far only the Czech Republic, Moldova, Slovenia and Turkey are not actively pursuing work on a mandatory funded pillar. However, the Czech Republic and Slovenia have established strong voluntary funded pillars, and Turkey's has been expanding since 2003. Some scepticism about the multi-pillar reform model has recently been noted by the Bank as the new administrative costs are high, current pensions have fallen and the benefits of the new approach are not yet evident. The falling returns of funded schemes are thought to be the effect of a high percentage of domiciled pension investment.

5.2 - The European Commission's position:

The Commission Communication of 1999 "A concerted strategy for modernising social protection" was aimed at reinforcing cooperation at European level, with a view to helping Member States modernise social protection and adopt a common political vision by means of a concerted strategy. The Commission clearly states in it that strong social protection systems are an integral part of the European social model. The fundamental objective is to provide people with a securely funded and adequate pension. This may involve an appropriate balance between funded and pay-as-you-go systems. The Commission emphasises the need to anticipate the impact of demographic ageing on social protection systems. The design and reform of pension systems should discourage early withdrawal from the labour market, encourage flexibility in retirement arrangements and promote active participation by older people. Poverty among older people is the result of their low participation in employment combined with changes in household structures. Active ageing is to be promoted. To assist Member States in this process and to monitor ongoing policy developments, the Commission would publish its report on social protection on an annual instead of a biennial basis. This report would be drawn up in close consultation with the Member States. The Commission invited the other Community institutions, notably the European Parliament, the Economic and Social Committee and the Committee of the Regions, as well as the social partners, non-governmental organisations and the social security institutions to contribute to this process.

Following on from this Communication, the Open Method of Coordination (OMC)⁷⁵ was put in place, in the area of pensions, leading the Member States to adopt common objectives and to translate them into National Action Plans. The common objectives for pension scheme reform adopted in 2001, in this framework, call for the retention of solidarity between generations for the maintenance of a balance between retired and working people.

In the Communication from the Commission – Green Paper "Confronting demographic change: a new solidarity between generations", March 2005, the Commission says that the EU is faced with dramatic changes: between 2005 and 2030 the total working age population (15-64 years) is due to fall by 20.8 million⁷⁶. Almost everywhere, fertility is below population replacement level. Only France and Great Britain are not faced with a decline in the population. Ageing could cause GDP to fall from 2.25% today to 1.25% in 2040, with all that this implies for entrepreneurship and initiative. It is necessary to continue modernising social protection systems, especially pensions, to ensure their social and economic sustainability. Greater employment participation is needed to compensate for the predicted fall in the working age population, particularly by women and older people. Also needed is investment in human resources, research, innovation and higher productivity through economic reforms. The Lisbon Strategy objective of a 70% employment

75/ cf. Part 1, sheet 11: Open Method of Coordination (OMC)

76/ See the ETUC site (www.etuc.org) for its analysis and position on the subject of demographic change, translated into the Executive Committee resolution adopted on 14 and 15 June 2005, entitled: "Confronting demographic change: a new solidarity between the generations, ETUC Contribution to the debate started by the Green Paper"

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rate will have to be exceeded and the retirement age will have to rise. A new solidarity between generations must be developed based on mutual support and transfer of skills and experience. Discrimination against older people should be combated. The demographic changes may lead to a new adaptable and flexible organisation of working time. Technological developments are another way of balancing family life and work. Quality jobs and a good working environment should keep older people at work. Active ageing can be achieved by placing flexible bridges between work and retirement. Gradual retirement and new forms of employment, the voluntary sector and the social economy are ways for elderly people to participate in economic and social life.

5.3 - The UNICE position:

Source: "UNICE Strategy Paper on Sustainability of Pensions, November 2001".

The average demographic dependency ratio in the EU will almost double over the next decades, and the economic dependency ratio shows an even heavier burden on the employed population. Early exits from the labour market amplify the problems. Pension expenditure places pressure on public finances. Sharp increases in other age related expenditure like health and long-term care are to be expected. The sustainability of pension systems in the EU is in question. Solutions lie in reforming public pension systems, in measures to develop occupational pension schemes and in the development of individual pension schemes. UNICE recommends that Member States ensure the budgetary consolidation of public schemes through reform of expenditure rather than tax increases. Member States should set aside sums of money to finance expenditure in the expected peak years. They should further improve access to occupational pension schemes through tax relief on income taxation for workers and on corporate taxation for employers. At the same time, social security contributions and non-wage costs should be reduced to make room for the development of private schemes. Transferability of occupational pension rights should be looked into. Quantitative restraints on investment decisions should be replaced by the "prudent person" principle. The market in supplementary pension insurance should be opened to foreign operators to improve their performance through competition. The EU should coordinate national macro-economic, employment and pension reform policies as justified by euro-zone stability. Economic sustainability should be the main aim of the reforms.

■ 6. – EXAMPLES OF DIFFERENT TYPES OF PUBLIC PENSION SYSTEMS: Source: MISSOC, ILO Budapest

6.1. - Nordic type – case of Sweden:

The public pension system is compulsory and provides universal coverage. It consists of two parts. The national flat rate basic pension is based on residence in Sweden and financed partly out of general revenue and partly out of contributions. All residents are compulsorily covered. Everyone who has lived in Sweden for at least 40 years, or has worked for at least 30 years, is entitled to a fixed-rate national basic pension.

The national income-related supplementary pension scheme is a benefit defined system which is financed by employers' contributions, based on the wage bill. It is a pay-as-you-go system. It covers all employees and self-employed persons aged 16-64 years with a pensionable income (an amount 7.5 times higher than the basic amount). Incomes of less than a basic amount are exempt, as they are covered by the basic pension scheme. Everyone who has worked for at least thirty years is entitled to a full national supplementary pension. Pensions are expressed in basic amounts. The basic amount is changed every year by the government according to changes in the consumer price index. The national basic pension provides a single person with 96% of a basic amount yearly. Retirement is possible from age 61 (early retirement) to 70 (deferred retirement). The statutory retirement age is 65.

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In 2001 a new indexation of pension benefits was introduced: pension liabilities should never exceed the assets of the system. The relation between assets and liabilities is determined yearly in the form of a balance coefficient that takes into account life expectancy.

Moreover, since 2000, the contributions earmarked to fund pensions in Sweden have been divided in two:

- 16% remains earmarked for funding on the pay-as-you-go principle;
- and 2.5% is invested in “defined contribution” schemes.

6.2. - Mixed type: United Kingdom and Northern Ireland:

A non-contributory state pension is payable to certain persons aged 80 years and over.

The Contributory State Retirement Pension scheme (for people who have reached the statutory retirement age) is made up of a flat rate Basic Pension, an earnings-related Additional Pension or SERPS (since 1978) and an earnings-related Graduated Retirement Benefit (just for the years 1961-1975). Voluntary supplementary pension schemes may be used to replace benefits provided by SERPS. People on low incomes are exempt.

Another significant step was taken in 1998 when, on 15 December, Tony Blair’s government published a Green Paper on pensions, which announced that the SERPS was to be replaced as from April 2002 by a new State Second Pension, with a significant increase in personal pensions

The statutory retirement age is 65 (women 60, gradually rising until 2020). Early retirement is not possible. It is possible to defer retirement until the age of 70. To draw a full basic pension, contributions must be paid or credited for 44 years (men) and 39 years (women). A minimum of 10 years is required. The level of the basic pension is calculated according to the length of time insured. For the Additional Pension (SERPS) the calculation principle is the level of earnings. In the case of graduated retirement benefit, the amount of contributions paid between 1961 and 1975 is considered.

6.3. - Insurance system – the case of Austria:

Insurance is compulsory for all employees in paid employment, trainees, family members working in the enterprises of self-employed persons, and self-employed persons, such as teachers, musicians and artists. Also included are persons who do not have a formal employment contract but essentially work as an employee. Persons with low incomes are exempted from insurance but may voluntarily opt in.

To draw a full standard pension, 40 insurance years are needed. The statutory retirement age is 65 for men and 60 for women (progressively rising until 2028). Early retirement is possible at 60 for men and 55 for women. There is no limit for deferment of retirement. The pension is calculated on a calculation basis (15 best insurance years) as a percent according to the number of years insured.

6.4. - Universal coverage – the case of the Netherlands:

The system of universal coverage is financed from contributions on earned incomes made by all residents up to the age of 65 whatever their income or nationality. There are no exemptions. (However, there are also compulsory supplementary pension schemes for employees based on agreements between the social partners.) There are no qualifying conditions. The statutory retirement age is 65 and there is no early retirement and no deferred pension. Anyone who has been insured between 15 and 65 is entitled to a full pension. Everybody receives a flat-rate pension benefit. A full pension is therefore payable after 50 years of insurance. For every year in which there was no insurance paid, an amount of 2% of the full pension is deducted. There are, however, supplements for married or unmarried partners.

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6.5. - The new Member States – Poland:

The pensions reform, prepared with help of the World Bank grant and following the principle “old-age security through diversity of old-age saving”, took place in 1999. Since then the persons insured through the mandatory public pension systems are divided into three groups. Those born before 1949 remain in the former pre-reform system, which is a benefit defined pay-as-you-go system. Those born between 1949 and 1968 could choose between two options: they could either stay exclusively in the reformed pay-as-you-go system (contribution rate 19.52%), which is therefore not the same as the pre-reform system available to the generation born before 1949, or they could choose a combination of the reformed pay-as-you-go public system (contribution rate 12.22%) and the new mandatory individual investment pension saving accounts system (contribution rate 7.3%). The generation born after 1968 has no choice – they are members of both obligatory components of the new pension system.

The reformed pay-as-you-go public pension system is the so-called notional defined contribution scheme that imitates the accrued assets in individual investment pension accounts. Notional capital is estimated. Each insured person has an individual notional savings account (not to be confused with the additional pre-funded individual pension account). The contribution rate is fixed for ever as that is a crucial element of the notional system. That is namely the precondition for accrediting individual notional accounts with a return equalling the rate of growth of the contribution base (total wages on which contributions are being paid). Every year the notional accounts are indexed to the growth of the total wage bill to safeguard the relationship between future pensions and wage levels. The indexation level is fixed at 75% of wage bill growth. The administrator of the public pension fund informs the insured person yearly of the accumulated credits on his/her notional account.

There is little redistribution in such notional savings schemes, which include a constant proportion of the benefit equal to 24% of the average wage, state subsidies for non-contributory periods such as childcare and non-voluntary unemployment (with the minimum wage as the contribution basis), and separate gender-based life expectancy tables (since the pension computation formula also includes life expectancy factors). Early retirement remains possible only if a special system for bridging pensions is created for industries with difficult working conditions that pay pension benefits between the cessation of work and attainment of the statutory retirement age (65 for men and 60 for women).

A demographic reserve fund is being set up between 2002 and 2008 (1% of old-age insurance contributions from the pay-as-you-go system) to cover pension rights as the retired population grows.

The aim of the reform was to enhance the impact of contributions paid during the entire working life on the level of individuals' pensions. The transition from the pre-reform system to the new system will take decades. The transition costs up to 2050 are estimated at 100% of GDP. 10% of the transition cost was covered by income from privatisation. One quarter of the cost will be covered by increased government debt over the years. However, two thirds of the cost is to be covered by lower pensions. The erosion of the level of benefits will be achieved mainly through the indexation of pensions. Compared to pensions granted under the old system, the ratio between the average wage and the pension should decrease from over 60% to 35% in 2050. It is expected that future pensioners will more often be entitled to social assistance.

■ 7. – GLOSSARY

Accumulation rate: rate at which the right to a pension is consolidated compared with the annual wage and contributions to income-related schemes.

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Actual retirement age: age at which the employee actually retires (which may be earlier or later than the statutory age set by regulatory texts).

Benefit rate: ratio of the pension to the earned income.

Defined-benefit: the amount of the complementary pension is “defined” and corresponds in general (although other formulas may exist) to a guarantee by the scheme of a certain percentage (1%, 1.5%, 2%, etc.) of the annual wage contributed to the scheme. The company is responsible for keeping the commitment thus entered into.

Defined-contribution: a retirement plan in which only the rate or amount of contributions to be paid to the complementary pension scheme is defined. The amount of the pension (accumulated capital) will depend on price changes and returns on financial investments which will have been made over the period of subscribing to the scheme. The contributor bears responsibility for the investments.

Strictly speaking, this is the only scheme which may be termed “by capitalisation”. In this case, annual returns are “capitalised”⁷⁸.

Demographic transition: change to the demographic structure which arises when fertility and mortality rates decrease, resulting in an increasing number of older people in relation to younger ones.

Early retirement (or pre-pension): retirement before reaching the statutory retirement age.

Means-tested benefits: benefits are only paid if the beneficiary’s income is below a certain pre-defined level.

Notional capital: value of a personal account at a precise time which determines the value of the annuity on retirement.

Pay-as-you-go: technique whereby contributions paid by those in employment are immediately transferred to the retired in the form of old-age allowances.

Professional pension scheme: according to the European Commission’s terminology, all complementary pension schemes (obligatory or optional, individual or collective...) which, in the framework of the employment relationship, are set up or offered either by the company or in the framework of the industry sector are referred to as professional pension schemes. The terms complementary pension, pension fund, etc. are also used.

Replacement rate: ratio of the amount of pension to that of the final salary.

Revaluation: method of re-assessing benefits. This revaluation may be on the basis of changes in prices or salaries or of any other parameter chosen.

Statutory retirement age: retirement age as it appears in “statutory” texts relating to pensions.

Total capitalisation: at any given time there is “provision” for the commitments incurred; i.e. they are “covered” by corresponding assets.

Vesting period: period over which contributions must be made to have a pension entitlement.

^{78/} Even though this term is used extensively to denote all private schemes that are not managed according to the pay-as-you-go technique.

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CHAPTER 2

**Complementary social protection
in the field of pensions**

■ 1. – THE VARIOUS COMPLEMENTARY PENSION SCHEME SYSTEMS

1.1. - Complementary pension schemes: what exists

Public pension schemes may be complemented in two ways (which may be cumulative):

- by complementary pension systems or professional pensions or pension funds, etc., put in place in the context of the employment relationship (what is generally called the “second pillar” of the pension system);
- by complements resulting from individual choices, such as subscribing to life assurance or personal pension savings plans, or investments made in real estate or the stock exchange (what is called the “third pillar” of the pension system). These “third-pillar” complementary income systems are not the subject of European legislation concerning professional pension schemes⁷⁹.

In this chapter, we shall primarily consider work-related complementary pension schemes (i.e. systems belonging to the “second pillar”), since the “third pillar” belongs more to the private sphere and to individual choices.

Thus the “second pillar” of the pension world – to use a common term, even if this expression does not cover the same reality for everyone – in the meaning of the European Commission, consists of all systems which will allow future retirees to obtain, when the time comes, income additional to the pension paid by the public scheme, but only those systems **established or offered in the context of the employment relationship, and so connected with the post occupied**. It is for this reason that the Commission prefers to use the generic term “**professional pension scheme**”.

Thus, such schemes exist and have developed either on a voluntary basis (freedom for employees to subscribe or not to this type of complementary scheme), or on a compulsory basis. They may be “granted” or only “offered” by the company. Or again, they may be established in the context of enterprise or collective agreements.

The level of coverage of employees by these professional or complementary pension systems is variable. For the ETUC, priority must be given to schemes established by collective agreement or enterprise agreement covering **all employees** of a given sector or company, taking care in both cases to pay special attention to part-time employees, those on fixed-term contracts and young employees with little seniority, for example.

But aside from the “ideal” cases, situations in reality are very different and the coverage of these schemes is often more piecemeal:

- maybe, for example, because only workers belonging to one occupational category, such as “white-collar” employees, are involved. It is worth knowing, however, that, in this case, and assuming equal work, an employer cannot discriminate as regards professional pensions within the same occupational category, i.e. offer it to some but not others;

79/ See Part 1, sheet 6, which deals with this question in the third point, and also point 2.1 below: Complementary schemes and employee mobility

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- or again, because only those working full-time and/or in permanent contracts or having a certain seniority in the company (2 years, 3 years, 5 years, even more!), or even in the sector of industry...
- or maybe because, as already indicated, membership is only on a voluntary basis;
- etc.

Thus, in Europe, although complementary pension systems, the so-called "second pillar", are undergoing increasing development, they are still very unequal in their significance and degree of development depending on the country, and even on the industry branch or occupational status. Hence some very varied and contrasting situations.

For example, there are countries where, traditionally, second-pillar pensions are very widespread (Ireland, Great Britain, the Netherlands, the Scandinavian countries...). They may in some cases be compulsory (as in the Netherlands or Denmark, where they result from collective or enterprise agreements...).

There also exists the situation where, in countries like Italy, France, Spain or Germany, to name but a few, first-pillar pensions have a high substitution rate in relation to earned income, with the result that the development of complementary pension systems has occurred later or to a more modest extent.

Finally, notably in Eastern and Central European countries (Poland, Hungary, Slovakia, the Baltic states, etc.), the weakness of public pension schemes, combined with the structural economic reforms these countries experienced in the 1990s, has often led to strong growth in this type of complementary scheme, sometimes with little regard to the traditional categories⁸⁰. So it is that, in these countries, a new system has been established, often reserved for younger people, older employees not being allowed to join.

PENSION FUND ASSETS AS A PERCENTAGE OF GNP

	1990	1995	2000	2003	2004 Forecast
Germany	7,0 %	5,6 %	6,5 %	7,8 %	8,7 %
Austria	0,8 %	2,0 %	3,2 %	4,4 %	5,2 %
Belgium	3,0 %	3,6 %	6,1 %	4,0 %	4,6 %
Denmark	29,0 %	23,2 %	24,5 %	24,2 %	25,5 %
Spain	1,0 %	2,9 %	6,2 %	7,5 %	7,9 %
Finland	-	9,7 %	9,1 %	8,4 %	8,9 %
France	2,0 %	4,7 %	4,2 %	3,5 %	3,9 %
Netherlands	78,3 %	80,0 %	111,4 %	111,9 %	121,4 %
Ireland	-	-	43,9 %	39,3 %	43,2 %
Italy	0,6 %	1,7 %	2,5 %	2,8 %	2,8 %
Portugal	-	-	11,2 %	12,5 %	13,9 %
United-Kingdom	58,9 %	76,2 %	79,5 %	64,4 %	67,4 %
Sweden	31,1 %	33,8 %	28,9 %	48,3 %	53,2 %
Norway	4,8 %	6,1 %	7,1 %	7,0 %	7,3 %
Suisse	74,1 %	88,8 %	133,8 %	115,8 %	129,7 %

Source - INVERCO-EFRP - GDP data - Eurostat

^{80/} As already indicated at the beginning of this chapter, in some new Member States, the notion of "second-pillar" schemes in particular remains rather haphazard

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1.2. - Defined-benefit schemes and defined-contribution schemes: Definitions and trends

In complementary pension schemes, two types exist, “defined-contribution” schemes and “defined-benefit” schemes.

- “DEFINED-CONTRIBUTION” SCHEMES - In these schemes, only the contributions to be paid are defined in the contract (whether these come from the employer alone, from the employer and out of the employee’s earnings, or only out of earnings). The amount of benefit acquired at the time of retirement will be the result of several factors, and in particular, primarily of the amount of contributions paid and accumulated by the subscriber, but also to developments throughout the period of contribution and at the time the capital is realised, of monetary and financial markets in particular. This amount can be neither “defined” nor guaranteed at the time of joining the scheme. In some schemes, the capital can be accessed or converted into income in the case of invalidity. There may even be provision for a guarantee of reversion (payment to the surviving spouse of the subscriber);
- The “defined contribution” scheme is the only system with “capitalisation” in the strict sense.

This type of scheme is today the one which is growing the most, because it allows companies to avoid the social responsibility they incur with defined-benefit schemes.

“DEFINED-BENEFIT” SCHEMES - In this system, the benefit to be received at the time of retirement is guaranteed by the employer.

Generally, it is a certain percentage of the wage for each contributory year (for example 1%, 1.5%, 2%, etc.).

To satisfy this requirement, the scheme always has in reserve (in provision or in coverage; the scheme is then said to be “covered”) the sums corresponding at a time “T” to the realisation of the commitment made.

Unlike for defined-contribution schemes, it is not the results of financial investments that determine or guarantee the amount of pension paid, but the provisions thus made over the years. Financial products are additional.

This type of scheme is especially common in countries with a long tradition of complementary pensions (United Kingdom, Ireland, Netherlands, Scandinavian countries...). They are the only schemes which can be described as “pension funds” in the strict sense.

1.3. - Objectives

Whatever their type or means of establishment, the objective pursued through these complementary pensions is to supplement statutory or public pensions, increasing the substitution rate of the final salary for beneficiaries who have left working life.

By this increase in the substitution rate of pensions, these systems contribute to improving the capacity of the older population for consumption, increasing their standard of living and so favouring the economy of these countries by increasing the consumption potential of their populations.

■ 2. – CHALLENGES TO BE MET IN COMPLEMENTARY PENSION SYSTEMS

2.1. - Complementary pensions and employee mobility: the question of mobility and portability of rights

In the context of European mobility, the absence of common legislation (as exists for public pensions, with Regulation 883/04, the “Regulation on the Coordination of Social Security Schemes”)⁸¹

81/ See Part One, Sheet 6

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has been identified as one of the obstacles to this mobility (in particular the different provisions from one country to another on membership conditions, vesting periods, transfer of rights, etc.).

This is why the “High-Level Panel on the Free Movement of Persons”, chaired by Ms Simone Veil, former president of the European Parliament, called for the adoption of provisions aimed at removing these obstacles in its report submitted to the Commission on 18 March 1997.

A first step in this direction was made with the adoption in June 1998⁸² of the Directive “on safeguarding the supplementary pensions rights of employed and self-employed persons moving within the Community”⁸³. The complementary pension rights accumulated by migrant workers remain acquired within the scheme they have left—and so these rights are due at the time of retirement—when they go to work in another country of the Union. These are referred to as “dormant rights”. However, the Directive gives no hint as to the revaluation of these rights. While some countries (United Kingdom, Ireland, for example) already have provisions for their indexation, most other countries have no legislation or agreement on the subject. This means that these rights are not revalued and remain at their original value, even 30 or 40 years later!

A second step was taken with the adoption of the Directive of 3 June 2003, on the activities and supervision of institutions for occupational retirement provision⁸⁴.

The directive seeks to put in place a coherent Community legal framework for the supervision of institutions for occupational retirement provision.

Prudential standards regarding the investment policies of occupational retirement organisations are recommended while observing the principle of subsidiarity, which leaves Member States full responsibility for the organisation of their pension systems, as well as for the role allotted to each of the three pillars.

Similarly, a clear separation between the enterprise and the institution which is to guarantee the future complementary pension is demanded.

Information rights are also granted to members and beneficiaries of occupational retirement funds, as along with obligations in the areas of transparency, formulation of accounts and annual information to the supervisory authorities.

A third step could be achieved with the adoption of the proposed Commission Directive “on improving the portability of supplementary pension rights”⁸⁵ of 20 October 2005.

This proposal for a directive was presented by the Commission following the refusal of employers, and in particular of UNICE⁸⁶, to enter into negotiations with the ETUC on the portability of complementary pension rights, negotiations of which the ETUC was in favour⁸⁷.

This proposed directive aims, in particular, to improve

- the membership conditions of complementary schemes;
- the vesting periods;
- the revaluation of “dormant rights”.

but, above all, it offers the possibility of transferring one’s capital on changing companies, and therefore complementary pension schemes, whether this be within a Member State or from one Member State to another.

82/ See Part One, Sheet 6

83/ Directive 98/49/EC, OJ L 209 of 25 July 1998

84/ Directive 2003/41/EC and also see Part 1, sheet 6

85/ COM(2005) 507 final and also see Part 1, sheet 6

86/ From January 2007, UNICE is now called “BusinessEurope” (the Confederation of European Business)

87/ See the ETUC response to the Commission’s consultation “Second consultation phase of the social partners with a view to improving the portability of supplementary pensions” (ETUC Executive Committee of 16 October 2003)

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From the start, the ETUC has supported this proposed directive, which took up the substance of the demands it expressed in its reply to the second Commission consultation on the subject of complementary pensions; see the proposals adopted by its Executive Committee on 16 October 2003⁸⁸.

But the complementary pension scheme managers' lobby, in association with certain employer groups and echoed by certain Member States, are opposed to these provisions, in particular on the question of capital transfer. What will become of this proposal, which is being examined by the European Parliament, where it is encountering the same obstacles (it should reach first reading stage in the plenary session of April or May 2007), is somewhat uncertain.

The ETUC, for its part, is appalled that, once again, the defence of certain economic interests and certain groups should be preferred over the defence of the social interests of migrant and mobile workers, who, because of different rules at the European level, are losing rights in relation to their complementary pensions.

In any case, an important aspect in this area of complementary pension mobility has not been broached for the moment: that of taxation. Taxation schemes differ greatly from one country to another, and as long as nothing is done in this area, it will always be an obstacle to mobility. However, it must be recalled that, under the current operating rules of the Union, any change in this area requires unanimity.

^{88/} See the ETUC response to the Commission's consultation "Second consultation phase of the social partners with a view to improving the portability of supplementary pensions" (ETUC Executive Committee of 16 October 2003)

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TAX LEGISLATION GOVERNING PENSION FUNDS

European Union Countries	Contributions	Returns Fund	Benefits
Germany	E	E	T
Austria	T(1)	E	T(1)
Belgium	E(4)	E	T(1)
Denmark	E	T(3) 15%	T
Spain	E	E	T
Finland	E	E	T
France	E	E	T(1)
Greece	E	E	T
Netherlands	E	E	T
Ireland	E	E	T(1)
Italy	E	T(3) 12,5%	T(1)
Luxemburg	E	E	T
Poland	E	E	T
Portugal	E(4)	E	T(1)
United-Kingdom	E	E	T
Czech Republic	T(2)	E	T(1)
Slovakia	E	E	T(15%)
Sweden	E	T(3) 15%	T
Other European countries			
Norway	E	E	T
Switzerland	E	E	T
Turkey	E	E	E
Other non-European countries			
Canada	E	E	T
Korea	E	E	T(1)
U.S.A.	E	E	T
Japon	E	E	T(1)
Mexico	E	E	T(1)

2003 data. Source OECD

(1) Exemption or partial deduction E: Exempt

(2) State subsidy T: Subject to taxation

(3) Partial taxation

(4) Tax credit

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2.2. - Equality between men and women as to the amount of the pension

Unlike “defined-benefit” schemes or social security pension schemes, in the case of “defined-contribution” schemes, when the capital is converted to a pension according to the wishes of the beneficiary⁸⁹, the result in terms of the annuity to be received will be different depending on whether the beneficiary is a man or a woman.

The organisation responsible for calculating and paying the annuity will take the “actuarial” (statistical) life expectancy into account in its calculations. But as it seems that women have a longer “actuarial” life expectancy than men, the annuity that will have to be paid to them will theoretically be paid over a longer period, and so the annual amount will be lower than for a man.

The ETUC is campaigning for “unisex” payment of annuities, i.e. that for the same accumulated capital the amount of the annuity should be the same, whether the beneficiary is a man or a woman. Some countries, by law or through collective bargaining (Denmark, Sweden...) have already solved this problem; why not the others?

2.3. - Involvement of unions in the control of these funds and investment strategies

Another challenge for unions to take up concerns their involvement in the management of professional pension schemes, and here too situations are very different.

It is clear that, when it comes to “management”, it is not about day-to-day account management: that is the province of the scheme’s professionals. Rather, it is about management as relates in particular to investment strategies, but also the supervision and control of the body. That is to say, having seats:

- on the boards that decide investment strategies, so as to be able to have a say on investments (favouring in particular socially responsible investments and those with sustainable growth, rather than purely financial investments, in job-destroying hedge funds, for example);
- on controlling boards;
- and supervisory boards;
- etc.

so that the understandable interests of retirees and future retirees are always taken into account and the development of complementary schemes is not at the cost of employment.

Certainly, in schemes set up by the social partners and with strong involvement of union organisations, this involvement seems self-evident.... But this is not the case everywhere. Especially when a scheme is managed by an insurance company, it is the company which owns the scheme’s property and not the employees and retirees. So it would be desirable to be able to make progress at the European level in defining the economic rights that accrue in these complementary pension schemes as property of the workers.

■ 3. – OTHER CHALLENGES: THE EUROPEAN SOCIAL MODEL

3.1. - Efficiency of the financial system in relation to the European social model

To start with, it is clear that the attempts to replace public pension systems with private systems, whether in part or in whole, are not realistic and may give rise to many disadvantages. For example:

- the costs of transition to funded systems from the social protection systems in force in the majority of European countries and based on distribution formulas would be exorbitant. This

89/ In fact, according to the rules of these schemes, some offer their beneficiaries the possibility, at the time they reach pensionable age, either
- to receive their entire accumulated capital,
- to convert it into annuities,
- or a mixed solution: to convert some of it to annuities and to receive the rest as capital.

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is even more serious in the new European Union Member States as a result of the curbs on deficits and public debt which they have had to endure, even though these limits originating in the Maastricht Accords have recently been relaxed in this very area;

- individual funding systems are less suited to undertake inter-generational redistribution measures, making the elaboration of solidarity and income redistribution policies more complex;
- public monitoring of these systems is traditionally weaker;
- the beneficiary is directly exposed to the vagaries of financial management and of the markets, without being able to do anything about them;
- the administrative costs for these systems are always higher (volatile memberships, which leads to file management expenses, publicity expenses...) than in universal public schemes, which has a negative impact on the return of these schemes.

3.2. - Demographic problems

The ageing process in the European population affects not only public schemes, but also private pension schemes.

This difficulty is reinforced by the later and later or more haphazard entry of young people onto the job market, which leads for example to a shortfall in contributions.

3.3. - Relationship between statutory and professional pensions

Professional pensions, starting from their conception as complementary pensions, must be developed in the framework of an employment relationship, through its essential vehicle of normative formation, collective bargaining between the protagonists in the employment relationship, through employer and union organisations.

In European countries, the public authorities' practice of encouraging the development of these systems by fiscal measures or by exempting the amounts paid into these systems from social security contribution obligations is extensive.

The reasonable limit to such measures to encourage the development of these instruments must be set by attaining or approaching, always in a reasonable manner, the objective that once they retire, workers should maintain a consumption capacity and a standard of living close to those they enjoyed during their working lives.

Statutory or public pensions are an essential part of the social protection system, giving professional pensions this complementary character which allows them to pursue the outlined objective.

■ 4. – ALTERNATIVES

Certainly, and subject to the investments being made according to the criteria of social responsibility and sustainable growth as mentioned above, the existence of these schemes, which can only be complementary, can present positive aspects for society:

- as has already been mentioned, the purchasing power of people no longer in active employment is increasing whereas traditionally retirement entailed a decline in purchasing power. This increase has resulted in not just a boost in the living standards of this group of people, but also a boost in economic growth and demand;
- long-term savings and capital designed to finance supplementary pensions in the future generate forms of savings that will end up stable after a certain amount of time, given that they have to be invested in the capital markets (in any of its forms). These savings also help finance the productive economy and have a positive impact on companies' capital resources, public works and job creation.

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- Wage increases for active workers help finance these systems since they are incorporated into instruments which are generally non-financial, until the eventuality covered by the protection arises (retirement, invalidity and so forth). These are forms of deferred wages, which are non-inflationary since they are not designed to be used immediately. This also facilitates other methods of worker participation in company productivity.

■ 5. – POSITIONS OF OTHER PLAYERS – EUROPEAN COMMISSION – UNICE

5.1 - The European Commission

Within its area of responsibility, the European Commission is trying to gain a full understanding of the current occupational pension systems in the various countries, with a view to securing social protection for posted workers, mobility and free movement of workers within the Union and adopting means of guaranteeing standard cover in supplementary pension provisions.

Supplementary pension rights are defined in *Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed workers moving within the Community*.

Subsequently, as has been mentioned before, Directive 2003/41/EC of the European Parliament and the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, was adopted. These rights were also dealt with specifically in Council Directive 80/987/EC of 20 October 1980 (amending Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002) on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer.

The Commission's proposals involve facilitating the **acquisition and conservation** of occupational pension rights, guaranteeing adequate **protection of underlying rights** and, for those who are dismissed early, facilitating **the transfer** of acquired pension rights and guaranteeing adequate **information** for workers as regards occupational mobility.

The Commission is attempting to overcome the various obstacles which prevent people from joining company pension plans, by working on fixing a minimum age for joining the plans, waiting times or maximum qualifying periods. Other issues include specific protection for workers involuntarily forced to 'leave the plan prematurely' as a result of redundancy or insolvency of the company and the workers' choice to transfer their rights or keep them in one place. Relevant actuarial calculations are used to evaluate acquired rights that may be transferred or moved across borders.

In conclusion, there is a desire to adopt normative or advisory provisions allowing the aforementioned objectives to be attained.

This approach, in keeping with the Commission strategy, is designed to eliminate the daily obstacles to mobility amongst European workers and addresses three key aspects: regulations relating to the acquisition and conservation of rights, regulations affecting the transferability of rights and regulations pertaining to cross-border membership of occupational pension schemes. Such entitlements are not yet guaranteed throughout the Union.

The topic of supplementary pension schemes was addressed for the first time in a Commission Communication of 22 July 1991 on supplementary social security schemes. In 1996, a High-Level Panel on the Free Movement of Persons, chaired by Simone Veil, was asked to analyse the problems faced by posted workers and concluded that the treatment of supplementary pensions was indeed an obstacle to free movement.

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As a result of the recommendations made by the High-Level Panel, a Pensions Forum was set up as an advisory body which was organised and monitored by the Commission and involved all Member States, social players and sectoral representatives.

Lastly, the Commission issued a Communication on 19 April 2001 which proposed a general strategy for eliminating fiscal obstacles to the cross-border movement of occupational pensions. The Social Policy Agenda 2000-2005 considers the promotion of mobility to be a key factor.

5.2 - UNICE

UNICE's position on this matter is based on a feeling of distrust as regards the sustainability of the current state pension schemes. UNICE believes that demographic development will lead to financial strains on the system, meaning that contributions will have to be increased or benefits will have to be reduced, unless structural reforms are implemented.

According to UNICE, these reforms must include adjusting the levels of cover provided by statutory pension schemes, reorganising the budgets of these schemes and developing supplementary and private pension schemes.

It considers it is necessary to adopt measures at EU level designed to supplement those that have to be adopted by the Member States. These measures include guaranteeing the coordination of national macro-economic and employment policies which safeguard an internal market for financial services and regulating issues relating to cross-border mobility. UNICE is also calling on the European Union to monitor the development of national reforms and to ensure genuine coordination of national pension reform strategies.

■ 6. – GLOSSARY

Defined-contribution and defined-benefit (schemes) see the glossary at the end of the previous chapter.

Dormant rights: contributions and/or capital left in a professional pension scheme in the case of a change of company and pension scheme. So these contributions or capital are not transferred.

Exemption (tax): In relation to contributions, when they are paid into private pension schemes, they may be deducted from taxable income for tax purposes. In relation to pensions or capital gains derived from investment of funds, they are not included in the amount of taxable income for tax purposes.

Hedge funds: high-risk type of investment, the performance of which is generally unconnected with the general trend of stock and bond markets. There is no portfolio diversification (choice of a single strategy). The managers of these funds are generally paid on the performance of the fund. In short, these are purely speculative funds aimed at immediate and short-term profitability.

Pension fund: refers at the same time to

- the body in which the funds intended to provide a professional pension are deposited and managed;
- and also "defined-benefit" schemes.

Professional or complementary pension: private pension scheme to which the employee subscribes in the framework of the employment relationship to supplement the income provided by public pension schemes.

Public pension: statutory pension paid in the framework of social security, sometimes called "first-pillar pension".

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Regulation coordinating social security: Community regulation which takes into account periods worked or for which contributions were made in the various countries of the European Union, in the context of professional mobility, in allowing or calculating a right to social security (in the areas of health, pensions, unemployment, etc.). It was originally reserved for those from Europe, but its provisions were extended with Regulation 859/2003 to persons from third countries legally residing in Europe.

“Unisex” annuities: in defined-contribution schemes, annuities equal in amount for both men and women for the same accumulated capital, and so regardless of the actuarial life-expectancy criterion (i.e. regardless of the mortality tables used by all insurance institutions to calculate the risk to be covered).

Vesting period: period for which a beneficiary of a professional pension scheme must contribute before the rights become “vested” (i.e. his or her property).

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CHAPTER 3

Europe and healthcare

■ **1. - STATE OF PLAY: ORGANISATION, FUNDING, OBJECTIVES**

Obviously, everyone wants generally speaking to live as long as possible in good health, and to be able to benefit from the best possible and available care when they become ill.

So in every country of the Union healthcare systems have developed in order to meet this objective.

And so too healthcare systems have taken on greater and greater economic importance. By way of example, at the level of the European Union, according to the Joint Report of 2007 on social protection and social inclusion⁹⁰, they represented 8.8% of GNP in 2004. But these figures hide major disparities up to a factor of two⁹¹. Thus, the proportion of national wealth devoted to health expenditure⁹² ranged from 5.5% in Estonia to 10.9% in Germany.

In any case, it is interesting to note that expenditure is lower on average in Europe, where all countries have public health systems, compared with the United States where most health systems are private (15.3%).

However, the amount of expenditure is not the only criterion to evaluate the quality and especially the effectiveness of a national health system.

Life expectancy, the number of health professionals (physicians, nurses, etc.) and the number of hospital beds are also to be taken into account before making any conclusions from any comparison.

In discussing health systems, we need to distinguish:

- what the European Commission calls “healthcare”, which covers ambulatory medicine (city or country medicine) and everything connected with it (pharmacies, radiological clinics, etc.);
- and hospital services and care.

1.1. - Healthcare

Covering the costs of ambulatory care is done according to two principles within the European Union:

- either within a national health system;
- or within a health insurance system.

10 countries⁹³ have a national health system: Denmark, Spain, Italy, Ireland, Portugal, Finland, Sweden, the United Kingdom, Latvia, Malta. The requirement for access to the national health scheme is to be a legal permanent resident. So it is a universal system, covering the whole population.

The other countries have set up a “health insurance” system, with compulsory membership for employees. Rights are available subject to being “insured”, i.e. paying contributions to the health insurance scheme of the country concerned.

Cyprus, which did not have this type of scheme established at the national level, is in the process of reforming its system.

The funding of the system is ensured in three ways:

- essentially by contributions levied on wages, divided between the company and the

90/ COM(2007) 13 final

91/ COM(2007) 13 final

92/ Total health expenditure includes both public and private expenditure, including payments made directly by households

93/ At the time this document was revised, 1 March 2007

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employees (which is the case in France, the Netherlands, Latvia and Slovenia. In Italy, contributions are the sole responsibility of companies;

- by contributions as in the preceding case, but with the addition of a state contribution (Belgium, Czech Republic, Germany, Greece, Lithuania, Luxembourg, Hungary, Malta, Austria, Poland, Slovakia);
- through taxation (Denmark, Estonia, Spain, Ireland, Portugal, United Kingdom) or by local and regional authorities (Finland and Sweden).

There is free choice of doctors in Belgium, Germany, Estonia, France, Lithuania, Luxembourg, Malta, Austria and Slovenia.

In the other countries, the choice must be made in the region, the health centres or by enrolment.

While three countries—Belgium, France and Luxembourg—require the patient to pay for a medical consultation on a fee-for-service basis, in the other countries it is the health system that pays the practitioner, often by a system of “capitation”⁹⁴, but the patient may be asked for a contribution, as in Sweden, for example.

Except for the Netherlands, in all the other countries a contribution is required for the purchase of medication

- either according to the classification of the drug;
- or at the time of each prescription or by a fixed monthly or yearly sum or as a function of the year’s expenses;
- or else depending on the patient’s means, as is the case in Malta, or depending on the price of the medication, as is the case in Germany.

1.2. - Hospitalisation

The patient has a free choice of hospitals from among public hospitals or those contracted by the health scheme. This is the case in 17 countries of the Union.

In 5 countries (United Kingdom, Hungary, Lithuania, Ireland, Estonia) it is the doctor or the specialist who directs the patient to the hospital.

In Spain, the patient has no choice.

Malta presents a special case because of the small size of the island.

As regards the financial contribution of patients when they are hospitalised, 10 countries ask for a contribution to the costs of the stay, often in the form of a fixed price, in particular Belgium, France, Germany, Latvia, Estonia, etc., and three countries ask for a contribution to the cost of care (Hungary, Finland and Slovenia).

■ 2. - THE CHALLENGES FACING HEALTH SYSTEMS

Despite their different structures, health systems, whether at the national, European or global level, are confronted with the same problems.

2.1. - Population ageing

“Ageing” is not in itself a factor increasing the cost of care. The time during which a person is very sick and therefore a major consumer of care increases little. In other words, there is no expansion of the period for which one is a major consumer, but a displacement in time with the pro-

^{94/} For the meaning of certain terms, refer to the glossary at the end of the chapter

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longation of the length of life. All studies on this subject show that there are two periods of life which consume care: very early childhood (the first years of life) and the last year of life, and in particular the last six months.

Covering the risk of dependence, however, is another matter. This risk increases with increasing life expectancy and therefore with the increasing number of elderly people. Maybe people are living longer, but not everyone grows old under the same conditions. But this is much more a question of capacity to accept and accommodate, or of support services to help accomplish the routine chores of life, than a medical or health problem in the strict sense of the term.

The real effect of ageing on expenditure has more to do with culture than with health. In fact, the generations that reach a great age have taken on habits of "lifestyle comfort" that increase their demand for care.

Today, care is no longer primarily the resolution of an isolated health problem; it is more and more a matter of coping in the long term with a lasting pathology whose effects on the quality of life are to be diminished.

This change thus urgently poses the question of

- what is a matter for community responsibility (necessary and costly treatment);
- what could be attributed to individual responsibility (comfort) which some also call the definition (but by whom?) of a "basket of care".

2.2. - Resolution of inequalities

In fact, there is a social inequality which causes an inequality in access to care and which is reflected,

- firstly, in a cost increase;
- but, above all, in a less favourable health outcome for the patient.

In fact, in all developed countries, disadvantaged social categories make less use of ambulatory medicine and prevention.

Generally, they delay getting care

- on one hand, and often, for economic reasons, because, even if, as has been indicated, access to the doctor may be free, medication itself costs money and is becoming more and more expensive (even though generic prescribing may reduce this progression);
- but also for educational and/or cultural reasons: to admit to being ill is an admission of weakness, and/or one has not learned to take care of oneself and/or one is frightened of illness, even if "fear does not avoid the danger", one ignores it for as long as possible...

All this means that their health situation gets worse and the care to be given is therefore greater when it does not require a stay and treatment in hospital.

2.3. - Tensions in the management of healthcare personnels

In the face of ever-increasing costs, the tendency is to reduce them, often under the pretext of "rationalising" (which may sometimes be necessary) but which may also result in

- shortages of doctors and nurses;
- but also of hospital beds, which generates waiting lists.

2.4. - "Spatial" or geographical inequalities

"Spatial" inequalities may be added to social inequalities, that is to say an unequal distribution of healthcare professionals and equipment over the totality of a given territory.

In fact, a concentration of professionals and equipment around—large—cities and relative desertification in rural or mountainous areas can be observed.

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■ **3. - CHANGES AND TRENDS**

3.1 - The trend to privatisation

In order not to overload public finances or for other ideological reasons, the trend in many Member States, and not just among the most liberal, is to resort to and/or encourage privatisation in one sector or another of their health system.

Various arguments are advanced:

- competition between public and private sectors is beneficial;
- some treatments and/or medications are more instruments of comfort than a true medical response to a true health problem;
- the state cannot do everything; it needs to set and determine priorities;
- etc.

But this privatisation cannot help but pose a certain number of problems, of which some affect the very cohesion of society.

Very obviously, it poses the question of inequality of access to care (selection of patients by money).

But it also poses three other types of fundamental problem:

- the selection of risks: in the name of financial profitability of the healthcare structures or institutions, only “small risks” are accepted (risk-free confinements, minor benign surgical interventions, etc.), other, more serious pathologies being passed on to the public health system;
- exclusion: refusal to accept the most expensive patients or chronic pathologies, in particular refusal to treat old people or very young children. This is the case for private health centres (HMOs—Health Maintenance Organizations) in the United States, but not only in that country;
- the reduction or absence of prevention policies: curative treatment is preferred. Preventative actions whose financial profitability is not immediate are left to the “good offices” of the public authorities.

3.2. - “Controlling” expenses or “rationing” them?

As has already been indicated, all Member States are committed to cost-saving policies in the area of health.

In the last few years, expenditure devoted to health has generally tended to grow faster than the GNP (the wealth of the country)— up by 4.2% between 1998 and 2002—even though the latest Social Protection Report of 2007, mentioned at the beginning of this chapter, notes a certain slow-down.

There are many causes. We may cite:

- the improvement of technologies, in particular diagnostic technologies but also operative technologies which are becoming more and more sophisticated but also more and more expensive;
- stronger patient demands. Patients are better informed about new medications but at the same time, particularly among the younger generations, more attentive to their bodies and their health, and they want the best treatment and access to the best technologies, sometimes developing “consumerist” behaviour in this area;
- the discovery of new illnesses and new treatments (cancers, AIDS, etc.);
- etc.

Hence a new debate springing up between “controlling” expenses and “rationing”, or curbing, them. And sometimes, within Member States, the border between these approaches is tenuous, in the name, of course, of the financial balance and sustainability of systems.

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Hence too, in a certain number of countries, the installation of a borderline between what will be covered by the community and therefore national solidarity and what will be left up to individuals, which some call a “basket of care” which will be provided by the public authorities.

The debate is certainly open. But the real question is twofold:

- who defines this “basket of care”? The public authorities alone? The professionals (alone or in association with the public authorities)? And are the users, and more generally citizens, involved in this debate and this definition? And in what way?
- by what criteria will this “basket of care” be defined? Financial criteria? Profitability? etc.

3.3. - Mobility

European legislation already offers the possibility for European citizens who move within the European Union to be able to get healthcare expenses covered under the same conditions as in their state of origin, according to arrangements laid down in the social security coordination regulation (Regulation 1408/71, replaced by Regulation 883/2004), the provisions of which were extended in 2003 to people from third countries legally settled in the territory of the Union (Regulation 859/2003)⁹⁵.

And citizens are hesitating less and less to travel in order to receive better treatment. Some, perhaps with some exaggeration, talk about “medical nomads”. The reality is probably more modest⁹⁶, but the Union’s Court of Justice has had to deal with this tendency in several of its decisions, giving, in the lack of any legislative framework, preference to the mobility of patients, in the framework of free provision of goods and services⁹⁷.

The question that arises is how to reconcile the demands of individual freedom with those of the collective interest.

In other words, can health be reduced to a consumer good like any other, or is it integrated into a true public policy also taking preventative action, for example?

This is the challenge which has been issued today, and which union organisations, and not only Member States or the Commission, must take up....

■ 4. - WHAT REFORMS SHOULD THERE BE AT THE EUROPEAN LEVEL?

4.1. - From the Recommendation to the health OMC

The organisation and funding of health systems is a matter for each Member State, under the principle of subsidiarity.

However, the Union has not remained silent on this question and several initiatives have been taken in this domain, aimed at guaranteeing access for all to quality healthcare, which is, for the ETUC, the fundamental objective to be pursued and achieved.

As early as 1992⁹⁸, the Recommendation of 27 July 1992⁹⁹ on the convergence of the objectives and policy of social protection encouraged Member States to allow, on their territory, access for all to existing health systems regardless of the means of the person concerned.

^{95/} On this point, see Part 1, sheet 6

^{96/} Even though, in 2006, in an article in the *Financial Times*, Mr Kyprianou, European Commissioner from Cyprus, at that time responsible for health and consumer protection, encouraged Europeans to shop around for health across Europe, in the name of free movement of goods and services

^{97/} See Part 1, Chapter 7, the paragraph: “Decisions about healthcare and hospitalisation”

^{98/} See Part 1, sheet 6

^{99/} 92/442/EC

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At the Lisbon Council of March 2000¹⁰⁰, the Member States set themselves the objective of supplying quality health services.

The Health Council of June 2002 decided to set up a high-level panel of experts, which formulated 19 recommendations in 5 areas relating to:

- European cooperation for better resource utilisation;
- informing patients, professionals and political decision makers;
- access to and quality of care;
- reconciliation of national objectives with European obligations;
- the use within the health area of the Union's Cohesion and Structural Funds.

Finally, in its Communication of 21 April 2004, entitled "Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the open method of coordination", the Commission proposed to extend the Open Method of Coordination to the health and long-term care sector¹⁰¹.

4.2. - Specific legislation for healthcare?

The debate has been launched at the European level as to whether specific legislation is required on healthcare (but also on social services of general interest).

Initially, it was included in the "directive on services", presented by Commissioner Bolkestein¹⁰². Following major mobilisations on the part of the ETUC (notably the impressive Euro-demonstrations in Brussels in March 2005 and in Strasbourg in February 2006), the Parliament decided to withdraw both healthcare and social services of general interest from this proposal for a directive.

The Services Directive, with healthcare and certain (social) services of general interest expurgated, was formally adopted on 12 December 2006. It came into force on 28 December 2006, and Member States have until 28 December 2009 to transpose it into their national legislation¹⁰³.

But this means that, at the time of writing of this Guide, they both find themselves in a legal vacuum, in particular as far as healthcare is concerned, and dependent above all on the case law of the European Court of Justice¹⁰⁴.

As far as it is concerned, the ETUC has clearly expressed its position¹⁰⁵ in favour of:

- a framework directive laying down the principles and giving legal guarantees for the performance of those services which are not just economic, but which meet people's needs and which are part of the fundamental social rights recognised in the Charter solemnly proclaimed at the Nice European Council of 2000 and included in Chapter 2 of the Constitutional Treaty;
- specific directives taking account of the particularities of these sectors.

■ 5. - THE POSITIONS OF THE VARIOUS STAKEHOLDERS

As far as the Commission and the various European bodies are concerned, their positions have largely been presented and discussed above.

100/ <http://www.portugal.ue-2000.pt>

101/ See Part 1, end of sheet 11

102/ Proposal for a directive of the European Parliament and of the Council on services in the internal market, document COM (2004) 2 final, 2004/0001 (COD), 13.1.2004

103/ Directive 2006/123/EC

104/ See Part 1, sheet 7, the point about ECJ decisions relating to health care

105/ See, on the ETUC website, the Resolutions adopted on this topic by the Executive Committee

106/ www.platformsocial.org ; www.eapn.org

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5.1. - NGOs

European NGOs, and in particular the Platform of European Social NGOs, as well as the European Anti-Poverty Network (EAPN)¹⁰⁶, through their position statements published on their websites, have a position similar to that of the ETUC. They demand in particular a specific directive on healthcare services and social services of general interest. They have therefore joined in and/or supported the initiatives taken by the ETUC in these areas.

They have also welcomed the setting up of the OMC in the health and long-term care area.

5.2. - Employers

5.2.1. *BusinessEurope (UNICE)*

The position of UNICE¹⁰⁷, which became BusinessEurope on 23 January 2007, is in fact very traditional. Without too much caricature, it may be summed up as follows:

On healthcare, one needs to know the means available to develop the healthcare services one is capable of.

Besides this, BusinessEurope is not opposed to setting health systems in competition and has always been opposed to the initiatives taken by the ETUC to exclude healthcare services from the directive. For this organisation, it is necessary to limit as much as possible the permissible impediments to the free provision of goods – and also services in the context of the Internal Market.

5.2.2. *CEEP*

On these subjects and notably on social services of general interest, the enterprises with public participation have a position¹⁰⁸ very different from that of UNICE and very close to that of the ETUC.

CEEP and ETUC even participated¹⁰⁹ in the joint drafting of a proposed directive in this area.

The cooperation between the two organisations is thus continuing, until the hoped-for adoption of a directive in these areas.

■ 6. - GLOSSARY

Ambulatory (medicine): refers to treatment given outside the hospital sector, and so generally by the general practitioner and other health professionals.

Capitation (payment by): the professional is paid “per capita” in accordance with a list containing the number of patients enrolled for treatment in his or her surgery. Other elements than the number of people enrolled still figure in the calculations to set the professional’s remuneration, such as age, diseases treated, etc.

Contract: an agreement entered into between the public body which manages the health and/or hospital system and a private treatment centre and/or treatment centre situated outside the reference zone of the public system, under which a patient who goes there is covered on the same financial (or reimbursement) terms as in the public health system.

Curative: a service which consists of treating a pathology.

Fee-for-service: the professional is paid for each patient he or she is consulted by or each service he or she performs. This system contrasts with payment by capitation.

¹⁰⁸/ www.ceep.org

¹⁰⁹/ Resolution of the ETUC Executive Committee of 6 and 7 June 2006, Annex to the Resolution: “For a framework directive on services of general (economic) interest”

¹¹⁰/ See Part 2, Chapter 1, § 2.2.

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Health insurance scheme (or system): scheme based on “social insurance”—Bismarckian system¹¹⁰—under which, in order to benefit from the health system, and notably the coverage of treatment given, individuals are obliged to “insure themselves” with a body responsible for the health system, by paying a contribution.

Prevention (preventive/preventative): action which consists in taking measures or developing policies aimed at “preventing” illnesses, epidemics, etc.

Social insurance: “social insurance” systems set up initially under Bismarck in the second half of the 19th century are insurance systems in which the individual is insured as a function of need, but according to means, generally by paying a contribution. This system is called “social”, because, by bringing solidarity mechanisms into play, it is distinguished from the traditional insurance system, in which the more one pays the better one’s cover. So, in principle, the size of the rate of contribution does not influence the quality and/or accessibility of treatment services.

Transposition (of a directive): legislative act whereby a Member State transcribes the provisions of an adopted directive into its national legislation, modifying its own legislation if necessary. In general, Member States have a time limit (set in the text of the directive) of two years to make this transposition. If at the end of this period the Member State has not notified the Commission—custodian of the treaties and responsible for verifying their proper implementation—of the transposition measures it has taken, the Commission sends it a “reasoned opinion”, under the provisions of Article 226 (formerly 169) of the Treaty. If the state does not fulfil its obligation, the Commission initiates an infringement procedure with the European Court of Justice, proposing a penalty for delay or a lump-sum fine be paid by the defaulting state (Article 228 (formerly 171) of the Treaty on European Union).

Universal health scheme (or system): in this “Beveridgian¹¹¹” scheme, in order to have access to the health system and be covered financially by the national system, it is sufficient to fulfil a condition of length of legal residence on the territory.

111/ See Part 2, Chapter 1, § 2.2.

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CHAPTER 4

Employment and unemployment

■ **1. AIMS**

1.1. - Full employment, Quality and productivity of work, Social cohesion: the European Employment Strategy

In the European social model, full employment, the quality and productivity of work and social cohesion are major objectives considered as complementary and mutually supporting.

This is why, after the impressive demonstration, the Luxembourg European Summit (November 1997) launched the European Employment Strategy (EES), on the basis of the new provisions of the title of the Treaty on employment¹¹².

The EES is conceived as the principal instrument giving direction and ensuring coordination of employment policy priorities to which Member States subscribe at the European level.

The aim was to make decisive progress within five years.

It is thus that the heads of state and government agreed to a framework of action based on the Member States' commitment to establish a set of common objectives for employment policy. This European coordination of employment policies is supported by an annual cycle of guidelines approved at the Council level, national action plans of the Member States and a joint Commission report on employment.

At the Lisbon European Council (March 2000), the European Union set itself a new strategic objective for the decade to come: to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion. The strategy was designed to allow the Union to regain the conditions of full employment and strengthen social cohesion by 2010. The Council also considered that the general purpose of these measures was to increase the overall level of employment in the EU to 70% and the rate of employment of women to 60% by 2010.

The Stockholm European Council (March 2001) added two intermediate objectives and an additional objective: the overall level of employment and that of women should reach 67% and 57% by 2005, while the level of employment of older workers should reach 50% by 2010.

The Barcelona Council (March 2002) confirmed that full employment was a fundamental objective of the EU and called for the reinforcement of the employment strategy as an instrument of the Lisbon Strategy in the enlarged EU.

A thorough review of the first five years carried out in 2002 allowed the principal challenges and issues of the EES to be identified. It also underlined the need to reform the EES in order to align it more closely with the strategic objective of Lisbon targeting sustained economic growth, more and better jobs and strengthened social cohesion by 2010. This was done by adopting simpler guidelines in 2003.

A new reform was launched in early 2005 in the context of the Commission's proposal for a fresh start in the Lisbon Strategy. A new EES is in the pipeline following the adoption of new integrated guidelines in July 2005. Following the review of the Lisbon Strategy led by an independent high-level panel presided by Mr Kok, the Commission presented a Communication on employment growth in February 2005, which proposes a fresh start for the Lisbon strategy concentrat-

112/ It should be noted that the implementation of this provision of the Treaty of Amsterdam was carried out even before the Treaty had been ratified by all of the then Member States

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ing its efforts on two main tasks: encouraging vigorous and lasting growth, and creating more and better jobs. This has led to a complete revision of the organisation of the Employment Strategy in order to be able to take maximum advantage of the synergies and effectiveness of national measures and Community action.

This new EES covers a period of three years, from 2005 to 2008. It is based on:

- integrated employment guidelines: on the basis of a proposal from the Commission, the Council is adopting a series of guidelines setting out common priorities for the employment policies of the Member States;
- national reform programmes: each Member State draws up a national action programme describing how the common orientations will be conceived and implemented at the national level;
- joint employment report: The employment chapter of the annual EU progress report has been adopted by the Council and will be the basis of the joint employment report;
- recommendations: The Council may decide, by a qualified majority, on a proposal of the Commission, to adopt specific recommendations for each country;
- EU annual progress reports: the Commission reviews the progress made both at the national and at the Community level, based on regular monitoring of the actions enumerated in the Lisbon Community Programme and on an evaluation of the implementation of the Member States' national programmes. On the basis of this annual evaluation, the Commission identifies new actions, if needed, and consequently revises the Lisbon Community Programme.

Besides this, the EES has introduced a new working method at the European level, known by the name of "open method of coordination". This method is based on five key principles: subsidiarity, convergence, management by objectives, multilateral surveillance and an integrated approach.

- subsidiarity: The method establishes a balance between coordination at the European level of defining common objectives and the examination of results, and the Member States' responsibilities to decide the precise content of actions to be taken. The definition of the means and conditions whereby the programmes and policies are implemented is left in large measure to the Member States, who are responsible for their employment policy by virtue of the EU Treaty;
- convergence: The strategy aims to achieve results in the employment domain which are defined in common through concerted action, whereby each Member State contributes to improving the average performance of the Union. This principle was made more concrete by the Lisbon European Council and the following Councils, which confirmed full employment as a fundamental objective of the Union and set tangible quantitative objectives for the Union as a whole;
- mutual learning: The exchange of good practices and experiences is one of the principal objectives of the EES open method of coordination. A Member State may learn from the experience of other countries, which may already have found solutions to similar problems in the labour market. In encouraging mutual learning at all levels in the key domains of the EES, knowledge about the most effective policies and how to put them into practice is also included;
- integrated approach: The employment guidelines are not limited to active employment policies but also cover domains such as social policies, education, the tax system, enterprise policy and regional development. Structural reforms cannot be achieved by means of isolated and scattered actions; they demand coherent and concerted action over a broad range of policies and measures. These measures must moreover be tailored to meeting specific

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needs and conditions. This means that the Luxembourg process is not the “exclusive property” of labour and employment ministries: it requires the implementation of overall employment policies involving governments in their totality, as well as a large number of stakeholders;

- Management by objectives: The success of the strategy rests on the use of reference measurements and quantified objectives in order to ensure monitoring and thorough evaluation of the progress achieved. These objectives are founded on values shared by the Member States and cover matters deemed to be of common interest. Progress in the achievement of these objectives is defined in terms of quantitative or qualitative indicators. By using quantified objectives and indicators the results of policies are made transparent and therefore open to public scrutiny¹¹³.

■ 2. CHALLENGES

2.1. - More than 9% of the labour force is registered as unemployed (that is 19 million people)

Unfortunately, to date, no Community objective for a “qualitative improvement of employment” has really been achieved.

It is generally recognised that the struggle for a “quantitative and qualitative improvement of employment” and the struggle against unemployment are absolutely essential to protect and reinforce social cohesion in Europe.

In 2003 the average unemployment rate was 9.1% in the EU 25 and 8.1% in the EU 15. In the EU Member States the rates vary between 3.7/3.8% in Luxembourg and the Netherlands and 17.1/19.2% in the Slovak Republic and Poland.

Youth unemployment rates show the most alarming figures. In 10 EU Member States this rate is above 20% and in only 3 Member States it is under 10%. In 2003 in the EU 25 the youth unemployment rate was 18.3%; in the EU 15 it was 15.8%.

The long-term unemployment rates also indicate huge labour market problems. In 13 Member States this rate is above 3% of the labour force; in Poland and the Slovak Republic it even exceeds 10%. In the EU 25 the long-term unemployment rate is 4.0%, whilst in the EU 15 it is 3.3% (2003).

113/ Source: DG for Employment, Lisbon Strategy and International Affairs

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Unemployment rates in EU Member States (2003)¹¹⁴

	Unemployment rate	Youth Unemployment rate	Long-term unemployment rate
Belgium	8,1 %	21,5 %	3,7 %
Czech Republic	7,8 %	18,6 %	3,8 %
Denmark	5,6 %	10,3 %	1,1 %
Germany	9,6 %	11,1 %	4,6 %
Estonia	10,1 %	22,9 %	4,6 %
Greece	9,3 %	26,3 %	5,1 %
Spain	11,3 %	22,7 %	3,9 %
France	9,4 %	20,2 %	3,4 %
Ireland	4,6 %	8,3 %	1,5 %
Italy	8,6 %	27,0 %	4,9 %
Cyprus	4,4 %	10,6 %	1,1 %
Latvia	10,5 %	17,6 %	4,3 %
Lithuania	12,7 %	27,2 %	6,1 %
Luxembourg	3,7 %	10,4 %	0,8 %
Hungary	5,8 %	13,1 %	2,4 %
Malta	8,2 %	19,8 %	—
Netherlands	3,8 %	6,7 %	1,0 %
Austria	4,4 %	7,2 %	1,1 %
Poland	19,2 %	41,1 %	10,7 %
Portugal	6,3 %	14,4 %	2,2 %
Slovenia	6,5 %	15,9 %	3,4 %
Slovak Republic	17,1 %	32,9 %	11,1 %
Finland	9,0 %	21,8 %	2,3 %
Sweden	5,6 %	13,4 %	1,0 %
United Kingdom	5,0 %	12,3 %	1,1 %
UE-15	8,1 %	15,8 %	3,3 %
UE-25	9,1 %	18,3 %	4,0 %

Source: EU-Commission, Employment in Europe 2004, Statistical Annex

Unemployment rates by gender show higher rates among women (10% for women compared to 8.3% for men in the EU 25). Gender discrepancies vary a lot between Member States. To give two examples: in Italy the unemployment rate among women is much higher than among men (11.6% for women compared to 6.7% for men). In Finland, on the contrary, the female unemployment rate is lower (8.9% for women compared to 9.2% for men).

Note: EU statistics on employment/unemployment are based on the Labour Force Concept (LFK). All persons who work at least one hour a week in return for payment or who are not employed but have work are defined as employed. Persons defined as unemployed are all those people not employed and actively seeking a job.

^{114/} This table, like the following ones, may be updated by going to the website of the DG for Employment and Social Affairs. But in view of the time constraints for sending this document for printing ahead of the Congress, it was not possible to do so. But the overall trends have not fundamentally changed

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2.2. - Unemployed people need income protection and help for (re)integration into the labour market

Especially in periods of high unemployment, ensuring income protection for the unemployed is one of the big challenges that welfare states are facing.

Income protection rules for the unemployed vary a lot in different Member States. In most countries there is compulsory unemployment insurance covering all employees, but in some Nordic countries and those applying the so-called "Gent modell", the system is administered by trade unions and in some cases only covers trade union members.

There are also huge differences both regarding the period during which benefits are paid and regarding the amount of such benefits. Another crucial element is the conditions attached to the payment of benefits (what kind of job must be accepted etc).

Detailed information on unemployment benefit legislation and on income replacement rates for the unemployed in EU Member States can be found in:

MISSOC, Social Protection in the Member States, 2004, OECD, Benefits & wages: OECD Indicators 2004 (www.oecd.org/els/social/workincentives).

In many cases, people who have lost their job not only need financial help during periods of unemployment but they also need assistance to find a job (training programmes etc). This aspect was one of the main reasons for adding an employment chapter to the EC Treaty (at the Amsterdam Intergovernmental Conference in 1997), which was followed by the Luxembourg process and the European Employment Strategy (EES) with their National Action Plans.

Detailed information on the EES and the National Action Plans can be found on the website of the European Commission (www.europa.eu.int/comm/employment_social).

2.3. - An increasing number of people work under precarious conditions or in undeclared employment

Atypical work is emerging all over Europe (temporary work, part-time contracts, self-employment etc.). A lot of those concerned work under precarious conditions but have no other option than to accept such jobs.

Undeclared work is another big problem, since it not only deprives workers of their fundamental rights but also undermines the financing of social security schemes and public budgets.

2.4. - 22 million jobs would need to be created by 2010 to reach the Lisbon employment target

In 2003 the overall employment rate in the EU 25 was 62.9%. To reach the Lisbon target of 70%, it is estimated that 22 million jobs would need to be created by 2010 (EU Commission, Employment in Europe 2004, p.27). In its 2005 spring report the Commission noted that 6 million jobs (instead of 22 million) could now be created by 2010.

The main obstacle to achieving the Lisbon employment targets is the ill-conceived macroeconomic "stability" policy, focusing mainly on low inflation and on reducing public debt and doing much too little about stimulating economic growth.

2.5. - The ageing of the workforce requires the creation of adequate job opportunities for older workers and measures for improving their "employability"

For many years the phenomenon of ageing was mainly discussed as a challenge for financing old-age pensions, without any reference to the labour market.

In the late 1990s the link between labour market developments and the long-term sustainability of pension schemes was addressed for the first time in EU documents (reducing unemployment and increasing employment rates, especially among women and among older workers, is now seen as a crucial means of reducing the increase in dependency rates).

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However, ageing not only has an impact on pensions (and on other aspects of social security); it also has a critical impact on the age of the workforce. One huge challenge for labour market policy is that the baby-boomers are getting older and in the near future (before reaching their retirement age) they will be in the age range between 50 and 65. In the light of this development, ensuring adequate job opportunities for older people and ensuring their employability (health protection, lifelong learning, etc.) is becoming crucial.

2.6. - Immigration policy has to take account of the labour market

In 2003, the EU 15 gained approximately 1 million people through migration. That accounts for more than 80% of its total population growth. While the share of third country nationals in total employment was below 4%, these people contributed to employment growth by about 13% during the period 1997 to 2003.

Some say that Europe will soon need millions of immigrants to counterbalance its ageing population. But there is competition for jobs, and as long as unemployment rates are much too high (and employment rates are very low) in many Member States, there have to be curbs on immigration if Europe wants to achieve its full employment objective and to safeguard social cohesion.

■ 3. DEVELOPMENTS IN THE PAST 5 YEARS

3.1. - Unemployment rates have risen again

In the late nineties unemployment rates went down, but since 2001 the rates have been going up again.

In 1998 the unemployment rate was 9.4% in the EU 25, whilst in 2003 it was at nearly the same level, with an alarming increase from 8.5% in 2001 to 9.1% in 2003. In the EU 15 between 1998 and 2001 the unemployment rate went down from 9.4% to 7.4%, the period 2001 to 2003 then increased to 8.1%.

The youth unemployment rate was 18.6% in 1998 and is now 18.3% (EU 25).

Source: European Commission, Employment in Europe 2004

3.2. - No increase in employment rates since 2001

In the period 1998 to 2003 the overall employment rate in the EU 25 increased by 1.7 points (by 2.9 points in the EU 15), but nearly all of that increase dates from the period 1998 to 2001. In the EU 15 between 1998 and 2001 the employment rate increased from 61.4% to 64.1%; since 2001 there has only been a small increase. In the EU 25 in the period 2001 to 2003 the employment rate did not increase at all. Very different developments can be seen across the Member States. Between 1998 and 2003 the highest rise in the total employment rate occurred in Spain (with an increase of 8.5%). On the contrary, most new Member States suffered a decrease in their total employment rate.

Women's employment rates increased more than overall employment rates (EU 25 +3.2%, EU 15 +4.4%). There was an even higher average increase in older people's employment rates (ages 55-64), up by 4.4% in the EU 25 and by 5.1% in the EU 15.

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	Employment rate – 2003			Employment rate – change 1998 – 2003		
	Total empl. rate	Female empl. rate	Elder empl. rate	Total empl. rate	Female empl. rate	Elder empl. rate
Belgium	59.6 %	51.8 %	28.1 %	+ 2.2 %	+ 4.2 %	+ 5.2 %
Czech République	64.7 %	56.3 %	42.3 %	- 2.6 %	- 2.4 %	+ 5.2 %
Denmark	75.1 %	70.5 %	60.2 %	0.0 %	+ 0.3 %	+ 8.2 %
Germany	64.8 %	58.8 %	39.3 %	+ 0.9 %	+ 3.0 %	+ 1.6 %
Estonia	62.9 %	59.0 % 5	2.3 %	- 1.7 %	- 1.3 %	+ 2.1 %
Greece	57.9 %	43.9 %	42.3 %	+ 2.4 %	+ 3.7 %	+ 3.3 %
Spain	59.7 %	46.0 %	40.8 %	+ 8.5 %	+ 10.2 %	+ 5.7 %
France	62.8 %	56.7 %	36.8 %	+ 2.6 %	+ 3.6 %	+ 8.5 %
Ireland	65.4 %	55.8 %	49.0 %	+ 4.8 %	+ 6.8 %	+ 7.3 %
Italy	56.1 %	42.7 %	30.3 %	+ 4.1 %	+ 5.4 %	+ 2.6 %
Cyprus	69.2 %	60.4 %	50.4 %	+ 3.5 %	+ 6.9 %	+ 1.0 %
Latvia	61.8 %	57.9 %	44.1 %	+ 1.9 %	+ 2.8 %	+ 7.8 %
Lithuania	61.1 %	58.4 %	44.7 %	- 1.2 %	- 0.2 %	+ 5.2 %
Luxembourg	63.1 %	50.8 %	29.5 %	+ 2.6 %	+ 4.6 %	+ 4.4 %
Hungary	57.0%	50.9%	28.9%	+ 3.3 %	+ 3.7 %	+11.6%
Malta	54.5 %	33.6 %	30.3 %	---	---	---
Netherlands	73.5 %	65.8 %	44.8 %	+ 3.3 %	+ 5.7 %	+10.9%
Austria	69.2 %	62.8 %	30.4 %	+ 1.3 %	+ 4.0 %	+ 2.0 %
Poland	51.2 %	46.0 %	26.9 %	- 7.8 %	- 5.7 %	- 5.2 %
Portugal	67.2 %	60.6 %	51.1 %	+ 0.3 %	+ 2.3 %	+ 1.1 %
Slovenia	62.6 %	57.6 %	23.5 %	- 0.3 %	- 1.0 %	- 0.4 %
Slovak République	57.7 %	52.2 %	24.6 %	- 2.9 %	- 1.3 %	+ 1.8 %
Finland	67.7 %	65.7 %	49.6 %	+ 3.1 %	+ 4.5 %	+13.4%
Sweden	72.9 %	71.5 %	68.6 %	+ 2.6 %	+ 3.6 %	+ 5.6 %
United Kingdom	71.8 %	65.3 %	55.5 %	+ 1.3 %	+ 1.7 %	+ 6.5 %
EU 15	64.3 %	56.0 %	41.7 %	+ 2.9 %	+ 4.4 %	+ 5.1 %
EU 25	62.9 %	55.0 %	40.2 %	+ 1.7 %	+ 3.2 %	+ 4.4 %

Source: European Commission, Employment in Europe 2004

3.3. - More flexibility, less security

In most Member States there is an increase in atypical work and a rising number of workers are affected by periods of unemployment. Security for employees is decreasing (less job protection etc.). Low-skilled and unskilled workers are the hardest hit.

Under the influence of neo-liberal ideas, in many EU Member States the replacement rate of unemployment benefits has also been reduced, the maximum period for receiving unemployment benefits (and unemployment assistance) has been shortened and the range of jobs that an unemployed person has to accept has been widened.

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■ 4. REFORM OPTIONS (ALTERNATIVE APPROACHES)

4.1. - "Passive" approach

This approach primarily focuses attention on income protection for those losing their jobs. It is widely accepted that this is not sufficient to solve the problem.

4.2. - "Active" approach

In an "active" approach the focus is on measures to bring unemployed people back into work (and to avoid people in work becoming unemployed).

Two types of "active" approach are used, based on very different conceptions of unemployment:

a) An active approach based on the principles of the European social model: to reconcile flexibility and job security

In this approach an active labour market policy has to be an integrated part of overall policy (including macroeconomic policy, employment policy, health protection, etc.).

The approach accepts that unemployed persons need assistance for (re)integration into the labour market (especially to improve their employability) and that they are entitled to a decent level of social protection during unemployment. "Activation" measures have to be designed in the light of job opportunities in the labour market, and sufficient jobs have to be created for all claimants to be "activated".

Denmark is an example proving that a high level of income protection during periods of unemployment and public assistance for reintegration into the labour market do not prevent the unemployed from seeking a job (the unemployment rate is low in Denmark), but on the contrary help workers to adapt to changing needs on the labour market.

b) The active approach according to neo-liberal ideas

Neo-liberal programmes of "activation" focus their attention on the duties of job seekers. The strategy consists of insisting on the obligation to actively seek paid employment. Job offers must be accepted whatever the position. The essential point must be that no unemployed person receiving benefits is "inactive" or "without an occupation". Benefits may thus be reduced, or even stopped, to encourage the job seeker to accept these jobs.

The ETUC, for its part, is quite obviously opposed to such an approach (even if it agrees that providing benefits alone—which in all cases is a necessity for persons without employment and therefore, in general, without means—is not enough, and that it must be supported by concrete measures allowing a job to be found, such as skills review, additional training, acquiring new skills, etc.). But it cannot accept seeing the "welfare state" turn into the "workfare state"!

■ 5. POSITIONS OF OTHERS

5.1. - Hard-core neo-liberal approach

Unemployment is a free choice or the result of welfare state provisions. Minimum wage and social benefits for the unemployed reduce incentives for workers to offer their labour at market prices. Trade unions destroy the price mechanism (for wages) and create unemployment. An undisturbed and free supply and demand of labour is the best remedy for creating full employment and for economic growth.

Based on such (faulty and irresponsible) arguments for fighting unemployment, hard-core neo-liberals criticise both trade unions and the welfare state.

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5.2. - EU mainstream approach

Official EU policy includes a commitment to a high level of social protection and also includes a commitment to accept, support and guarantee trade unions' legitimacy. Social policy should provide a decent level of income protection for the unemployed. Assisting unemployed people to find a job and eliminating the "working poor" are other objectives cited in official EU documents.

In practice, however, many EU documents call for wage restraint, wage differentiation, decentralisation of collective bargaining and an individualisation of workers' rights. The implementation of such policy in many Member States is weakening the rights of workers and unemployed people whilst also weakening trade union power (since it results in further differentiation and fragmentation of the workforce).

Some arguments being used:

- income protection has to be reduced to make it more attractive for unemployed people to search for a new job;
- sanctions for failing to fulfil obligations have to be made stricter for those receiving unemployment benefits;
- labour costs must be reduced to make Europe more competitive in the global economy;
- labour market regulations (on wages, working time, termination of employment contracts, etc.) need to be made more "liberal".

This, broadly speaking, is the stance of the employers and in particular BusinessEurope (UNICE).

■ 6. GLOSSARY

Active expenditure: Refers to policies put in place in some Member States which combine payment of benefits to the unemployed and incentive measures, notably in relation to training and personal job searches. Some countries (notably the United Kingdom, in a sense the pioneer in this area) make payment of unemployment benefits conditional on accepting these "activation" measures - sometimes whatever they may be!

Passive expenditure: benefits paid to unemployed people are accounted for in this approach.

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CHAPTER 5

Family benefits

■ 1. - OBJECTIVES

What are we talking about?

Family benefits are designed to:

- **OBJECTIVE 1: Cover the risk of the loss or reduction of earned income.** To look after their child, one or both parents may have to give up all or part of their job and pay.

AND/OR

- **OBJECTIVE 2: Cover the costs related to bringing up a child.**

AND/OR

- **OBJECTIVE 3: Provide a financial reward to families that have children (conservative approach)**

Types of benefits

With regard to Objective 1, these include those that enable parents to continue working and earning.

How?

- By providing access to childcare facilities either directly (by reimbursing the cost of childcare) or indirectly (by paying a subsidy to lower the cost of childcare¹¹⁵).

And those that offer an income to parents who give up work.

How?

- By providing a parental leave allowance, either a lump sum or a sum that is proportional to their last wage.
- By validating a parent's rights to social security (unemployment benefit, a pension etc.). Even though parents are not working, they continue to build up their entitlements to social security benefits 'as if' they were still working.
- Benefits for Objectives 2 and 3 involve providing a family allowance per child, regardless of whether or not the parent is working or using childcare facilities.

These last two objectives may also be achieved through other benefits that are not strictly classified as social security benefits, such as tax rebates for dependent children, housing benefits and so forth.

Types of financing

- **Tax**

AND/OR

- **Social security contributions**

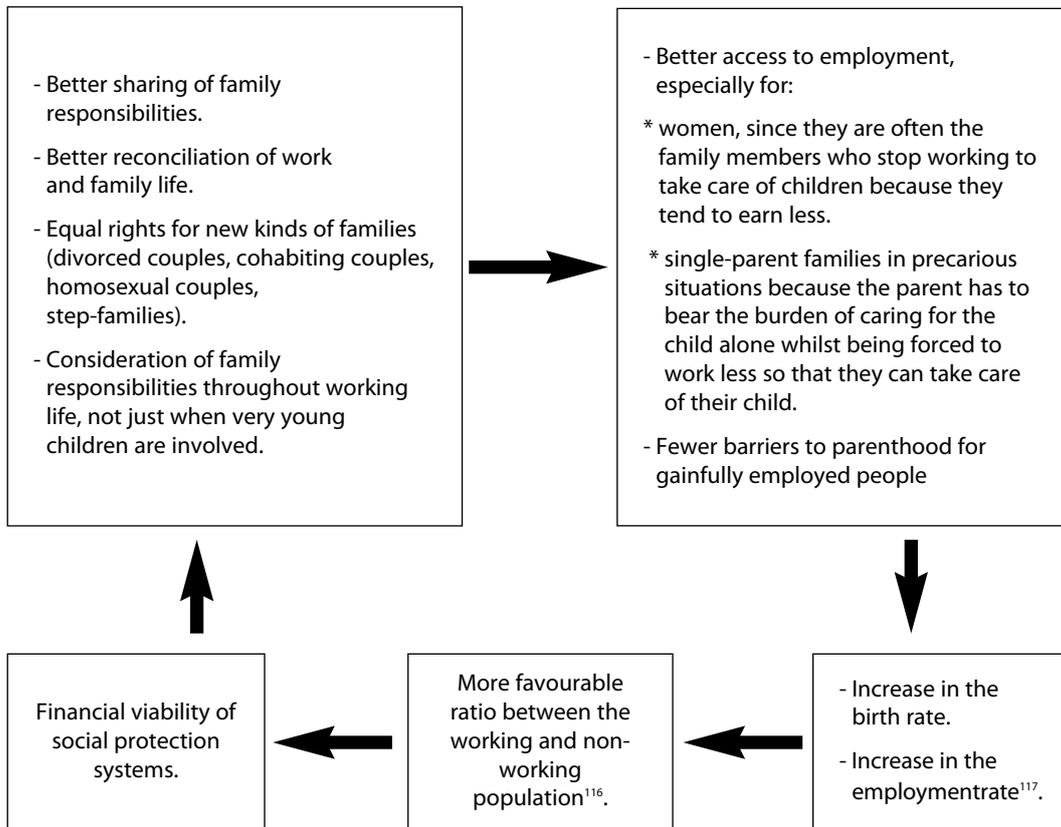
AND/OR

- **Direct payments by the employer, occasionally based on a collective agreement.**

115/ The issue here is not limited to the role that social protection can play as regards the financial accessibility of childcare, but also concerns the facilities available (in sufficient numbers, in readily accessible locations and with suitable opening hours).

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■ 2. - CHALLENGES



Each aspect is a real challenge in itself and also helps to overcome other challenges.

■ 3. - RÉFORMES

Trends in Central Europe:

- conversion from entitlements dependent on being employed to a system of universal benefits available to all;
- concentration of benefits on those most in need (based on means tests);
- general reduction of the amounts received and the period over which they are paid out;
- greater benefits for large families;
- parental leave allowance payments made available to men, but with reductions in the amounts paid out.

Reasons: Facing up to increasing poverty, making savings in the budget, influence of religious movements supporting traditional national and family values with regard to the declining population.

116/ See the 'Pensions' section for more informations

117/ Achieving a high rate of employment obviously does not simply depend on this sort of family policy, but above all on the number of jobs available

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Trends in Western Europe:

- Either no reform or diverse and diverging measures..

■ 4. - SOLUTIONS/INSTRUMENTS

4.1. - What could be the best solutions?

Employment for women:

- link family benefits to employment, for example, by increasing benefits. Encourage women to work before having children (the 'job first, baby next' approach) which makes it easier for women to return to work after having a child (see Sweden);
- benefits should not pay people for work they do in the home;
- finance benefits through a general system (not at company level), otherwise women are placed at a disadvantage on the labour market. As seen with reference to a couple's decision about which parent will give up work to look after a child, women are the ones who require benefits most often (see b) and, as a result, companies offer women fixed-term contracts or sack them so as not to have to finance their benefit (cases of this have been reported in Central Europe);
- impose a time limit on parental leave allowances:
 - > Otherwise women are out of work for too long, making it more difficult for them to get back into the labour market.

Employment for single parent families

- grant larger special benefits;
- make these special benefits conditional on seeking employment or enhancing the recipient's employability.

Fewer barriers to parenthood for gainfully employed people

- increase allowances, in particular those awarded to large families;
- improve access to childcare facilities.

- Several studies show that:

- reducing benefits has a negative effect on birth rates;
- increasing benefits has a limited positive effect on birth rates (a 25% increase in benefits only leads to an increase of 0.07 children per woman) and this effect is short-lived (example of Finland where the psychological effect of increasing benefits wore off a few years later). Improving childcare, on the other hand, has a long-term positive effect on birth rates (see Sweden);
- Factors other than family benefits: improved maternity insurance, secure employment.

Better sharing of family responsibilities

Encourage fathers to take parental leave by:

- guaranteeing a higher child-raising allowance calculated on the basis of the last salary. As a result, when couples are deciding who will give up work to care for a child, men who earn more than women would also be encouraged to give up work to look after a child;
- making the entitlement to receive benefit an individual right (instead of a right for couples). This would result in a special allowance for mothers and a special allowance for fathers. If the father did not make use of his right to leave, the benefit would be lost, thereby encouraging fathers to take leave.

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Better reconciliation of work and family life

- ensure that childcare costs are adequately covered and therefore reduce personal contributions as much as possible;
- avoid limiting benefits to the most disadvantaged!
- avoid restricting benefits to low income parents, otherwise parents earning an income would be excluded and would find it more difficult to reconcile work and family life;
- factors other than family benefits: collective reductions in working time.

4.2. - Instruments to be used?

Adopt a 'hard' approach (legally binding), stressing:

- EU responsibility for **social security**: see Introduction;
- EU responsibility for **family policy** is currently non-existent (Member States are responsible for this);
- that the notion of **equal opportunities** for men and women is currently preventing European legislation from being developed, since the Commission, Council and Court of Justice are not interpreting this notion freely enough and are denying the impact that imbalances in the division of family responsibilities are having on equal access to employment.

Results:

- either there is no European legislation on social security family benefits:
Example: proposals for directives on childcare at the end of the 1990s were turned into recommendations
- or European legislation governing social security family benefits is limited.

Examples:

- limitation to the issue of free movement of workers (Regulation 1408/71) that determines which national legislation on family benefits should be applied to workers who exercise their right to free movement);
- the framework agreement on parental leave (transposed in Council Directive 96/34/EC of 30 June 1996) only highlights the importance of maintaining entitlement to social security rights during the minimum period of leave and makes no provision for any kind of allowance accompanying this leave.

However,

The 'soft' approach (not legally binding) highlights the role of social protection when reconciling work and family life, often with the aim of improving employment and, in particular, 'making work pay':

- the publication of recommendations, in particular in 1990 on childcare services, and the publication of Communications, in particular, "Modernising Social Protection for More and Better Jobs: a comprehensive approach contributing to making work pay" (2003) and Green Papers, in particular the Green Paper on life cycles (2005);
- European Strategy for Employment, in particular Guideline 20 and the related Commission recommendations;
- the Open Method of Coordination (OMC) on issues to do with social protection.

4.3. - Arguments to use?

Expose the contradictions inherent in some of the rhetoric at European level.

- Europe cannot describe the low birth rate as a problem and at the same time demand more flexibility from workers without allowing workers to combine this flexibility with having children;
- Europe cannot call for higher employment rates but for cuts in social security benefits, since these benefits could help increase employment rates.

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■ 5 - OTHER STAKEHOLDERS

NGOs, in particular the Confederation of Family Organisations in the European Union (COFACE¹¹⁸) works for the recognition of the rights of and development of assistance for families. More recently, it has also taken an interest in the role and responsibility of fathers and their involvement in the family structure.

BusinessEurope (UNICE) argues for an orientation of social protection resources in a direction which encourages active participation in the labour market, without specifying the role of family benefits.

And in those countries in which enterprises are required to contribute (through social contributions for example) to the funding of family policies, and notably benefits, it demands their disengagement and funding provided by the state or by local government.

■ 6 - GLOSSARY

Family benefits: totality of benefits paid in cash (either to the child—directly to the child—or to the family) to assist with education and the care to be given to children. These payments, which often increase according to the number of children and the status of the child in the family, may be paid from the birth of the first child and their payment limited to a given age.

Family policy: totality of measures taken in favour of families, whether in terms of direct assistance - payment of specific allowances for children (family allowances and/or scholarships) - or indirect assistance, in the form of leave (maternity, parental or for education) or housing assistance or tax relief, benefits in kind, etc.

Family quotient: taking account when calculating tax of the number of children in the household, in the form of a rate (quotient) established by the taxation service.

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CHAPTER 6

**Main sources of information on the analyses
and positions of the ETUCS**

To make this Guide more user-friendly, the ETUC's reference documents on the various themes dealt with in this second part have been grouped together at the end of the document. This section lists, in particular, the Resolutions adopted:

- either in the framework of the preceding two Congresses (Helsinki, end of June-beginning of July 1999, and Prague, May 2003);
- or in the context of the Executive Committees during the same period.

Obviously, at the time when this Guide is being finalised, the Seville Congress (21-24 May 2007) has not yet taken place, and it will therefore be necessary to refer to the ETUC¹¹⁹ website for the latest positions adopted by the ETUC on the various issues dealt with in the second part of this Guide.

This list is not exhaustive, and trainers should consult the ETUC website which covers the various issues discussed under the headings "Other documents", "Press releases", and so forth¹²⁰.

Trainers will thus delve, as required, into the texts judged the most useful and best suited to their activities.

Finally, a "Social Protection Newsletter" is produced (by Henri Lourdelle) at least once a month. This newsletter contains information on current debates in this area and includes positions adopted by the ETUC.

Open Method of Coordination (OMC)

Executive Committee Resolutions:

- 21-22/3/2000: A concerted strategy for modernising social protection;
- 14 and 15 March 2006: To bolster social cohesion, ETUC wants an ambitious and efficient OMC applied to social protection and social inclusion.

Social protection funding:

- Resolutions of the Congresses in Helsinki (1999) and Prague (2003).

Pensions

Resolutions of the Helsinki and Prague Congresses

Executive Committee Resolutions:

- 13-14 June 2001: Assuring the viability and quality of pensions in Europe;
- 14 and 15 June 2005: "Confronting demographic change: a new solidarity between the generations. ETUC Contribution to the debate started by the Green Paper".

Complementary and/or professional pensions

Resolutions of the Helsinki and Prague Congresses

Executive Committee Resolutions:

- 13-14/12/2000: For a regulatory framework at European level concerning occupational pension schemes;

¹¹⁹ www.etuc.org

¹²⁰ On the ETUC website, go to the "Our activities" section, and under this heading see, in particular, the following themes: Social policies, Economic and employment policies: Lisbon Strategy, Internal market.

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- 16-17/10/2003: Response of the ETUC to the Commission's consultation "Second consultation phase of the social partners with a view to improving the portability of supplementary pension".

Health services and public services

Resolutions of the Helsinki and Prague Congresses

Executive Committee Resolutions:

- 9-10/10/2002: A priority for the European Union: access for all to quality care;
- 19 and 20 October 2005: For lasting coverage with solidarity of dependant persons in the framework of the Open Method of Coordination: Towards the definition of ambitious objectives on the European scale;
- 13-14/12/2000: A regulatory framework for services of general interest and public procurement;
- 28-29/4/2003: ETUC on services of general interest and the Commission Green Paper;
- 17-18 March 2004: The proposal for a Directive on services in the internal market
- 9-10/6/2004: The proposed Directive on services;
- 9-10/6/2004: ETUC declaration on the proposed Directive on services;
- 5-6/12/2004: Mobilisation of the ETUC for essential changes in the draft directive on services in order to protect workers.

Employment

Resolutions of the Helsinki and Prague Congresses

Executive Committee Resolutions:

- 25-26/10/2000: Employment Guidelines 2001;
- 22/3/2000: Lisbon Summit: A new opportunity for a strategy for full employment;
- 10-11/10/2001: The economic situation, jobs, and the euro;
- 6-7/3/2003: Revitalise the Lisbon Strategy now to fight unemployment and social degradation;
- 17-18 March 2004: For a more balanced implementation of the Lisbon Strategy;
- 1/12/2004: More and better jobs by putting social Europe at the heart of the Lisbon Strategy;
- 14-15/3/2006: Move Social Europe up a gear! Time to face the facts: Lack of real European cooperation and leadership is why the Lisbon Strategy is not working.

The family

Executive Committee Resolutions:

- 25-26/10/2000: Combating child labour in Europe;
- 06 and 07 June 2006: ETUC position on the mid-term review of the ETUC Equality Plan 2003-2007;
- 07 and 08 December 2006: ETUC's position on the first stage consultation of the social partners at Community level on the reconciliation of professional, private and family life.