

COUNCIL RECOMMENDATION

of 27 July 1992

on the convergence of social protection objectives and policies

(92/442/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, under the terms of Article 118 of the Treaty, the Commission has as its task the promotion of close cooperation between Member States in the social field;

Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted at the Strasbourg European Council on 9 December 1989 by the Heads of State or Government of 11 Member States, states in the 7th, 13th and 16th recitals and in points 10, 24 and 25:

'Whereas the completion of the internal market must offer improvements in the social field for workers of the European Community, especially in terms of (. . .) social protection (. . .);'

'Whereas (the) aim (of this Charter) is (. . .) to declare solemnly that the implementation of the Single European Act must take full account of the social dimension of the Community and that it is necessary in this context to ensure at appropriate levels the development of the social rights of workers of the European Community, especially employed workers and self-employed persons;'

'Whereas the solemn proclamation of fundamental social rights at European Community level may not, when implemented, provide grounds for any retrogression compared with the situation currently existing in each Member State;'

'According to the arrangements applying in each country:

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Persons who have been unable either to enter or to re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.'

'According to the arrangements applying in each country:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.
25. Every person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.'

Whereas social protection is an essential instrument of solidarity among the inhabitants of each Member State, in the context of the general right of all to social protection;

Whereas the Commission in its action programme relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers noted that differences in social security cover might act as a serious brake on the free movement of workers and exacerbate regional imbalances, particularly between the north and the south of the Community; whereas, based on this, it has been proposed that a strategy be promoted for the convergence of Member States' policies in this field, underpinned by objectives established in common, making it possible to overcome such disadvantages;

Whereas, having noted that comparable trends in most of the Member States may lead to common problems (in particular the ageing of the population, changing family situations, a persistently high level of unemployment and the spread of poverty and forms of poverty), the Council proposed, at its meeting on 29 September 1989, that this *de facto* convergence should be further promoted by establishing common objectives as a guide for national policies;

⁽¹⁾ OJ No C 194, 25. 7. 1991, p. 13.

⁽²⁾ OJ No C 67, 16. 3. 1992, p. 206.

⁽³⁾ OJ No C 40, 17. 2. 1992, p. 91.

Whereas the aim of this convergence strategy is to fix common objectives able to guide Member States' policies in order to permit the co-existence of different national systems and to enable them to progress in harmony with one another towards the fundamental objectives of the Community;

Whereas the specific common objectives must act as pointers to the way in which these systems are modified to take account of protection needs, particularly those resulting from changes in the labour market, family structures and demographic trends;

Whereas this convergence seeks also to guarantee the continuation and stimulate the development of social protection within the context of the completion of the internal market; whereas this will facilitate the mobility of workers and their families within the Community and whereas steps should be taken to ensure that this mobility is not impeded by too great a disparity in levels of social protection;

Whereas, because of the diversity of the schemes and their roots in national cultures, it is for Member States to determine how their social protection schemes should be framed and the arrangements for financing and organizing them;

Whereas this recommendation does not affect national and Community provisions on right of residence;

Whereas the social protection objectives laid down in this recommendation are without prejudice to each Member State's option to establish the principles and organization of its health system;

Whereas this action appears necessary in order to achieve, as part of the operation of the common market, one of the aims of the Community,

I. HEREBY RECOMMENDS THAT MEMBER STATES SHOULD:

A. allow their general policy in the area of social protection, without prejudice to the powers of the Member States to establish the principles and organizations of their own systems in the sectors concerned, to be guided by the following principles:

1. Taking account of the availability of funds, of priorities and balances within social protection systems and according to those systems' own organizational and funding procedures, social protection should attempt to fulfil the following tasks:

(a) in conformity with the principles enunciated in the Council Recommendation of 24 June 1992 on common criteria concerning sufficient resources and social

assistance in social protection systems ⁽¹⁾, to guarantee a level of resources in keeping with human dignity;

(b) under conditions determined by each Member State, to give any person residing legally, within its territory, regardless of his or her resources, the chance to benefit from the system for the protection of human health existing in the Member State;

(c) to help to further the social integration of all persons legally resident within the territory of the Member State and the integration into the labour market of those who are in a position to exercise a gainful activity;

(d) to provide employed workers who cease work at the end of their working lives or are forced to interrupt their careers owing to sickness, accident, maternity, invalidity or unemployment, with a replacement income, fixed wither in the form of flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes;

(e) to examine the possibility of introducing and/or developing appropriate social protection for self-employed persons.

2. Social benefits should be granted in accordance with the following principles:

(a) equal treatment in such a way as to avoid any discrimination based on nationality, race, sex, religion, customs or political opinion, provided that applicants fulfil the conditions regarding length of membership and/or residence required to be eligible for benefits;

(b) fairness, so that beneficiaries of social benefits will receive their share from improvements in the standard of living of the population as a whole, while taking account of priorities set at national level.

3. Social protection systems must endeavour to adopt to the development of behaviour and of family structures where this gives rise to the emergence of new social protection needs, related in particular to changes on the labour market and demographic changes.

⁽¹⁾ See page 46 of this Official Journal.

4. Finally, social protection systems must be administered with maximum efficiency having regard to the rights, needs and situations of those concerned, and with maximum effectiveness in terms of organization and functioning;

B. adapt and, where necessary, develop their social protection systems, without prejudice to the powers of the Member States to establish the principles and organization of their own systems in the sectors concerned in order progressively to attain the following aims and to take the necessary measures to this end:

1. **Sickness**

Organize the role of social protection in preventing illness and in treating and rehabilitating the persons concerned so as to meet the following objectives:

- (a) under conditions determined by each Member State, to ensure for all persons legally resident within the territory of the Member State access to necessary health care as well as to facilities seeking to prevent illness;
- (b) to maintain and, where necessary, develop a high-quality health-care system geared to the evolving needs of the population, and especially those arising from dependence of the elderly, to the development of pathologies and therapies and the need to step up prevention;
- (c) to organize where necessary the rehabilitation of convalescents, particularly following serious illness or an accident, and their subsequent return to work;
- (d) to provide employed persons forced to interrupt their work owing to sickness with either flat-rate benefits or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes.

2. **Maternity**

- (a) to organize for all women legally resident within the territory of the Member State coverage of the costs of treatment necessary due to pregnancy, childbirth and their consequences, subject to participation by the women concerned in appropriate social

security schemes and/or subject to cover by social assistance;

- (b) to ensure that employed women who interrupt their work due to maternity enjoy appropriate social protection.

3. **Unemployment**

- (a) in accordance with the provisions of the recommendation of 24 June 1992 and subject to their active availability for work, to guarantee minimum means of subsistence for employed persons legally resident in the territory of the Member State;
- (b) to make available to the unemployed, particularly to young people arriving on the job market and to the long-term unemployed, a range of measures against exclusion designed to foster their integration into the labour market, subject to their active availability for work or for vocational training with a view to obtaining employment;
- (c) to provide employed workers who have lost their jobs with either flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes subject to their active availability for work or for vocational training with a view to obtaining employment.

4. **Incapacity for work**

- (a) in accordance with the provisions of the recommendation of 24 June 1992, to guarantee minimum means of subsistence to disabled persons legally resident within the territory of the Member State;
- (b) to foster the social and economic integration of persons suffering from a chronic illness or from a disability;
- (c) to provide employed workers forced to reduce or interrupt work due to invalidity with either flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, adjusted where appropriate according to the degree of their incapacity, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes.

5. The elderly

- (a) in accordance with the provisions of the recommendation of 24 June 1992, to guarantee minimum means of subsistence to elderly persons legally resident within the territory of the Member State;
- (b) to take appropriate social security measures, having regard to the specific needs of the elderly where they are dependent on care and services from outside;
- (c) to take steps to combat the social exclusion of the elderly;
- (d) having regard to specific national circumstances as regards unemployment and demographic conditions, to seek to remove obstacles to work for persons who have reached the minimum age at which entitlement to retirement pension begins;
- (e) to put in place mechanisms to enable former employed workers who have retired with no gap in their working lives to benefit from a reasonable replacement income throughout their retirement, taking into account, where appropriate, statutory and supplementary schemes, while maintaining a balance between the interests of the working population and those who have retired;
- (f) for purposes of calculating pension rights, to reduce, in particular by opening up the possibility of voluntary contributions, the penalty for those workers who have gaps in their careers as a result of periods of illness, invalidity or long-term unemployment, and for those who gave up work temporarily to bring up their children or, where appropriate, in accordance with national legislation, other dependants;
- (g) to adapt pension schemes to the trend of behaviour and family structures;

- (h) to promote, where necessary, changes to the conditions governing the acquisition of retirement and, especially, supplementary pension rights with a view to eliminating obstacles to the mobility of employed workers;
- (i) in due course, to adapt pension schemes to demographic changes, while maintaining the basic role of statutory pension schemes.

6. Family

- (a) to develop benefits paid to:
 - families with the greatest child-related costs, for example because of the number of children,
 - and/or
 - the most disadvantaged families;
- (b) to contribute to fostering the integration of persons who, having brought up children, wish to enter the labour market;
- (c) to help remove obstacles to occupational activity by parents through measures to reconcile family and professional responsibilities.

II. AND, TO THIS END, REQUESTS THE COMMISSION TO:

1. submit regular reports to the Council on progress achieved in relation to the objectives set out above and to determine and develop, in cooperation with the Member States, the use of appropriate criteria for that purpose;
2. organize regular consultation with the Member States on the development of social protection policy.

Done at Brussels, 27 July 1992.

For the Council
The President
N. LAMONT