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Communication from the European Commission on more efficient decision-making in social policy: identification of areas for an enhanced move to qualified majority voting

Statement from the German Social Insurance from 30 August 2019

The German Federal Pension Insurance (DRV Bund), the German Social Accident Insurance (DGUV), the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) and the national associations for statutory health and long-term care insurance have come together because of their common European policy interests to form the 'German Social Insurance – Working Group Europe e.V.'

The German Social Insurance represents its members in dealings with the bodies of the European Union and other European institutions. It also advises relevant stakeholders in the context of current legislative proposals and initiatives.

Health insurance, long-term care insurance, pension insurance and accident insurance are part of Germany's statutory insurance system, which provides effective protection against the consequences of major life risks

I. Preamble

On 16 April 2019, the European Commission published the Communication 'More efficient decision-making in social policy: Identification of areas for an enhanced move to qualified majority voting' [COM(2019) 186 final]. It has thus launched a discussion on how to make decision-making in social policy at European level more efficient.

The initiative is based on efforts by the Juncker Commission to make the current EU framework for decision-making in key EU areas more effective. The aim is to find ways to increase the use of qualified majority voting for decisions, including in the area of European social policy.



Article 153(1) TFEU lists social policy areas in which decisions are taken under the ordinary legislative procedure. In these cases, the Council shall vote by a qualified majority. These areas include 'working conditions'; 'the integration of persons excluded from the labour market, without prejudice to Article 166'; 'equality between men and women with regard to labour market opportunities and treatment at work'; 'the combating of social exclusion'; and 'the modernisation of social protection systems without prejudice to social security and social protection of workers'.

Consequently, the vast majority of initiatives in social policy at European level are adopted by qualified majority and with the participation of the European Parliament.

However, Article 153(2)(3) TFEU explicitly states that 'the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said committees' in the following areas: 'social security and social protection of workers'; 'protection of workers where their employment contract is terminated', 'representation and collective defence of the interests of workers and employers' and 'conditions of employment for third-country nationals legally residing in Union territory'.

Therefore, there are still some particularly sensitive policy areas where the European Treaties clearly stipulate that all Member States must agree unanimously to an initiative. The special bridging clause contained in Article 153(2)(4) TFEU expressly excludes social security and social protection for workers from being subject to the application of the ordinary legislative procedure.

The German Social Insurance submits the following comments solely in response to the considerations of the European Commission to use the general bridging clause of Article 48(7) TEU to adopt recommendations in social security and the social protection of workers by qualified majority in the Council.

II. Details

The German Social Insurance calls for the principle of unanimity to be maintained for social security.

A) The diversity of the social security systems in Europe and their financing



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In its Communication, the European Commission rightly states that social protection systems for the 21st century must be adapted to changing labour markets and workers' needs. Member States must also be able to quickly find effective policy responses to demographic trends and new forms of work in Europe. The Recommendation on access to social protection for workers and the self-employed, which the European Commission itself mentions in its Communication, is an appropriate means of closing the remaining gaps in social protection systems. If the European Commission identifies necessary reforms at national level, these can be fostered and evaluated within the framework of the European Semester.

Social security systems in the EU are as varied as the Member States themselves. A look at Europe reveals a diverse range of systems and regulations, especially in terms of financing, the way funds are used and risk coverage. This diversity is due to the different traditions, policy priorities and economic situations in the Member States. Each Member State has completely different social policy traditions and characteristics as a result of its individual history and development, the economic environment, the interplay between industrial and social policy and the way in which social security systems are financed.

Social policy impacts all European citizens at all stages of their lives. The Member States therefore often take different paths in these areas. It is not only the social security systems that differ in their legal and financial configuration, but also the financial capacity of the individual countries varies considerably.



Therefore, unanimous decision-making on initiatives which affect the heart of national social security systems will continue to be indispensable in the future. The European Commission's proposal to make use of the general bridging clause for the adoption of recommendations on social security and the social protection of workers does not change this. Even recommendations that are not legally binding can have policy implications for the Member States, especially in terms of the reporting and evaluation obligations that are often associated with them.

B) Financial balance

In its Communication, the Commission states in a subordinate paragraph that, apart from the impact on the financial balance of national social security systems, there is no particular logic as to why decisions should be subject to voting by unanimity in some areas and by qualified majority in others. This assertion should not be dealt with in a single subordinate paragraph, since the issue of ensuring financial balance is at the heart of the sovereignty of the Member States with regard to the organisation of their social security systems.

Maintaining a financial balance in the social security systems is the result of broad debates and decision-making in the national parliaments – and particularly in Germany, the self-governing committees. The aim is to balance the interests of workers, taxpayers, contribution payers, jobseekers, pensioners, those in need of long-term care, patients, employers and many other interest groups. In Germany, social security accounts for a large proportion of public expenditure.

This expenditure is closely linked to many policy areas – such as economic policy, industrial policy, education policy and infrastructure policy – and forms the basis for the country's prosperity and social harmony. It does not seem appropriate to 'cut out' some of these complex, closely interwoven and financially effective control mechanisms and, if necessary, to regulate them at European level against the will of individual Member States.

C) Political accountability



Social policy decisions often affect people most profoundly in their everyday lives. Discussions on social security issues therefore play a large part in election campaigns and political debates in the media and parliaments. Citizens learn more about the position being taken by politicians and parties, and can make their next election decisions based on this information. This political accountability of an elected representative is indispensable in a democracy.

Unanimous decisions may take longer, but they ensure broader acceptance, which is particularly important in sensitive areas that are closely interwoven with other economic decisions at national level. Putting pressure on 'weaker' Member States through majority-based recommendations in these areas is likely to be counterproductive when it comes to promoting acceptance of EU decisions in these Member States and by their citizens.

D) Comparison with other policy areas

The German Social Insurance believes that there is no reason why the application of the general bridging clause should be necessary in the area of social security and social protection of workers (except in a cross-border context).

In the other policy areas mentioned in the Communication, such as the protection of workers where their employment contract is terminated, arguments are made against the application of the general bridging clause; these same arguments can also be applied to social security and the social protection of workers (except in a cross-border context). For example, the protection of workers upon termination of their employment contract is closely linked to national social security systems and labour market institutions. The duration and amount of unemployment benefits, the degree to which employment contracts are regulated, and judicial and extrajudicial procedures also vary from one Member State to another.

This is why, as with certain core areas of labour law, the most appropriate instrument to take account of the specific characteristics of the various national social protection systems is national legislation. The close ties and differences between social protection systems and labour market institutions, as well as the need to respect the diversity of national practices and the models of social dialogue, are strong arguments in favour of maintaining voting by unanimity. The German Social Insurance therefore sees no need for the general bridging clause to be invoked.

III. Summary

The German Social Insurance opposes the use of the general bridging clause in Article 48(7) TEU and qualified majority voting in the field of social security and social protection of workers (except in a cross-border context). The organisation and financing of social security systems are primarily the responsibility of the Member States. Only unanimous decisions in the Council can ensure that there is no interference with the core elements of social security.