

## Introduction

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*... a welfare state represents a set of interrelated institutional and normative solutions and procedures aimed at protecting and improving the standard of living of the population (in a broader sense), but it also encompasses the issues of fundamental rights and the social interpretation of subjective rights, i.e., legal relations that belong to private law (in a narrower sense).<sup>1</sup>*  
Vrban, D. (2003)

The concept of the book ‘Sustainability of the Social Security System – Demographic Challenges and Answers in Central Europe’ has been inspired by vital economic and social issues which are presented as follows.

The issue of social security is the subject of several international documents and treaties. Among the most relevant are International Labour Organisation (ILO) Convention No. 102 concerning Minimum Standards of Social Security, 1952; ILO Convention No. 128 concerning Invalidity, Old Age and Survivors’ Benefits, 1967; and the International Covenant on Economic, Social and Cultural Rights (UN), 1966. Of the regional international treaties, the most important are the European Social Charter of 1961, the Additional Protocol to the European Social Charter and, the most recent document, the European Social Charter (Revised) of 1996 (see more in the next chapter).

Expenditure on ‘social protection’ remained, by far, the most important Classification of the Functions of Government (COFOG) division<sup>2</sup> in 2021 in the European Union (EU) and in all reporting Member States and European Free Trade Association (EFTA) countries. It reflects the government’s core function to redistribute income

1 Vrban, 2003, p. 203; Vinković, 2023.

2 This classification divides general government expenditure into 10 categories per their purpose: general public services; defence; public order and safety; economic affairs; environmental protection; housing and community amenities; health; recreation, culture, and worship; education; and social protection. National Institute of Statistics and Economic Studies, 2021.

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and wealth, financed by compulsory payments. Unsurprisingly, the expenditure category dominating this division is ‘social benefits and social transfers in kind (purchased market production)’. Social benefits are paid to households to alleviate social risks and needs. Examples include unemployment benefits and pension payments. In 2021 in the EU, the social benefits and social transfers in kind comprised slightly more than 89% of expenditure in the social protection COFOG division. In the EU in 2021, expenditure on social protection stood at €2,983 billion, equivalent to 20.5% of GDP and 39.9% of total expenditure. By far the most significant group in this division, ‘old age’ (10.8% of GDP), mainly regards pension payments. Expenditure in ‘sickness and disability’ (2.9% of GDP), the second largest group, represents mainly social payments in cash or kind (i.e. regarding social insurance schemes). Social protection represented the largest area of general government expenditure in 2021 in all EU Member States. The ratio of government social protection expenditure to GDP varied across EU Member States from 8.7% of GDP in Ireland to 24.8% in France.<sup>3</sup>

Globally, population ageing is expected to increase the costs of social security over the next few decades, with regional variations present in scale, timing, and impact. This situation mostly relates to long-term, income-dependent cash benefits such as (old age) pensions, social services, or social insurance in-kind benefits provided for sickness and long-term care. EU-14 countries are expected to overtake the dependency threshold, a critical point in the cross-section of the age distribution of the population beyond which tax revenue from direct taxation can no longer sustain the planned level of transfer to retirees well before the year 2100, especially relative to, for example, the United States of America, more generous pension systems, and older societies with higher dependency-ratios. Asian countries, such as China and Southeast Asian countries, projected to reach Australian and North American levels of age-dependency within the next 30 years, will, on median projections, reach the age structure comparable to the Organisation for Economic Co-operation and Development (OECD) countries by the year 2050. From a sustainability perspective, similar issues concerning social security can be observed across Europe.<sup>4</sup>

The EU is facing the global phenomenon of demographic changes in the ageing of the population. If the currently established growth continues, by 2030, the total percentage of elderly people (between the ages of 65 and 79 years) will amount to 37% of the entire population in the EU, which will affect the sustainability of the pension systems of the Member States. Special studies have been prepared on the

3 Nine EU Member States – France (24.8% of GDP), Finland (24.6% of GDP), Italy (23.4% of GDP), Austria (21.9% of GDP), Denmark (21.1% of GDP), Belgium (21.0% of GDP), Germany (20.9% of GDP), Greece and Spain (both 20.6% of GDP) – devoted at least 20% of GDP to social protection, with Norway being the highest among EFTA countries (18.6%). At the other end of the scale, Ireland (8.7% of GDP), Malta (11.0% of GDP), Cyprus (12.5% of GDP), Hungary (13.1% of GDP), Romania (13.3% of GDP), Bulgaria (13.4% of GDP), Estonia (13.5% of GDP), Czechia (13.6% of GDP) and Latvia (13.8% of GDP), including Iceland among the EFTA countries (13.2% of GDP), each spent less than 14% of GDP on social protection. Eurostat, 2023.

4 Bojić, 2023.

topic of demographic ageing of the population and the impact of ageing on existing pension systems. Demographic data also indicate that Europe is ageing much faster than other continents and regions of the world and that, of the 25 countries with the oldest population worldwide, 24 countries are from Europe. However, even among the EU countries, there are systemic differences in the approach to the problems of the ageing population. It cannot be said that there is a single concept of protection, especially if it is considered that building a system and providing care for the elderly is the responsibility and obligation of each Member State.<sup>5</sup> Despite the developed social security system, there remain people who are not covered by that form of security. Therefore, the integration of the elderly into society is necessary, which warrants adequate income in old age such that the elderly can meet various needs.<sup>6</sup>

Despite the narrowed competence regarding social policy measures, European officials often raise the question of the sustainability of pension systems and the constant demographic changes in Europe, which will soon represent a special challenge for the community. One of the conclusions of the Stockholm European Council related to the issue of demographic changes and the sustainability of the pension system. Accordingly, the application of the increasingly popular Open Method of Coordination was proposed, which, however, did not bring satisfactory results.<sup>7</sup> Moreover, the European Commission, after consultation with the Committee for Social Protection of the European Union and the Committee for Economic Policy, proposed joint goals in the implementation of appropriate pension measures. Thus, it is also mandated to ensure decent basic living standards for the elderly and prevent poverty and social exclusion.<sup>8</sup>

The Committee for Social Protection of the European Union, based on the submitted reports of the Member States of the community, issued a special report that addresses the issue of the sustainability of pension systems. Further, the Member States previously agreed on 10 common goals for future pension reforms: 1. Sustainability of a more appropriate pension amount; 2. Ensuring intergenerational equity; 3. Maintaining the idea of solidarity within pension systems; 4. Maintaining a balance between rights and obligations; 5. Ensuring that pension systems support equality between men and women; 6. Ensuring transparency and predictability; 7. Ensuring that pension systems are even more flexible in light of constant social changes; 8. Facilitating the adaptability of the labour market; 9. Ensuring the consistency of pension schemes in general pension systems; and 10. Ensuring the sustainability of public finances.<sup>9</sup>

This manuscript follows the following structure: dogmatic part (the place of social law in the legal system, constitutional grounds), demonstration of compliance with the (Revised) European Social Charter (benefits, financing, organisation, and

5 Bojić, 2023.

6 Bojić, 2023.

7 Jacob, 2002, pp. 40–41.

8 Ibid.

9 Fuchs, 2002, p. 63.

administration), current social law regulatory issues, and problems regarding sustainability in light of demographic challenges.

Considering the noted phenomena, the country reports dedicate a separate part to pension or healthcare system sustainability. The comparative chapter also highlights the key findings, reflecting Central-European solutions to the emerging problems. The general framework of this book hinges on the related Articles of the Revised European Social Charter; therefore, each chapter captures compliance with the related articles of this document.

Article 11 of the Revised European Social Charter, which guarantees the right to protection of health, posits that

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*: to remove as far as possible the causes of ill-health; to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health; to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Article 12 of the Revised European Social Charter, which guarantees the right to social security, posits that

With a view to ensuring the effective exercise of the right to social security, the Parties undertake: to establish or maintain a system of social security; to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security; to endeavour to raise progressively the system of social security to a higher level; to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure: equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties; the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Article 13 of the Revised European Social Charter, which guarantees the right to social and medical assistance, posits that

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake: to ensure that any person who is without

adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights; to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want; to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Article 14 of the Revised European Social Charter, which guarantees the right to benefit from social welfare services, posits that

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake: to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment; to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Article 15 of the Revised European Social Charter, which guarantees the right of persons with disabilities to independence, social integration, and participation in the life of the community, along with Article 16 of the Charter, which guarantees the right of the family to social, legal, and economic protection, posits that

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

Article 17 establishes the obligation of the Member States of the Council of Europe to provide children and young persons with the right to appropriate social, legal, and economic protection.

In the country chapters, the authors will also present the history of social rights in Central Europe. We believe history is key to understanding the notion of social security or social protection. The social security system would be largely steered towards sustainability by the development and implementation of long-term care rules. The country chapters have paid special attention to this notion. However, beyond

the Slovenian and Romanian examples, the region has, thus far, seen no progress. This book does not address migration issues, which are crucial for sustainability, as the population of Central Europe is dying, and migrants are increasingly using the services of the social security system. Finally, long regarded as second-rate rights or disregarded in practice, implemented sparingly, and partly insufficiently backed by active, coherent measures to guarantee their exercise, we believe social rights are reemerging in bad economic times. We agree with Vallasek that the question of social rights is a particularly important topic these days, as global society is facing renewed crises from economic recessions, inflations, the pandemic, and wars. In this context, the issue of sustainability of the social system is a key factor. The issue of social law and social policy can never be considered alone but must be interpreted along with the education, health, labour, and even tax policy of the given state. Thus, the need for a coherent, long-term planned social policy is unequivocal.<sup>10</sup>

| 10 Vallasek, 2023. |

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