

ETUC Position on a Second stage consultation of the social partners on possible action addressing the challenges of access to social protection for people in all forms of employment (in the framework of the European Social Pillar Rights)

Adopted at the Executive Committee Meeting of 13-14 December 2017

Introduction

On 20 November 2017, the European Commission launched the second phase consultation of social partners, to discuss the possible content of the initiative to ensure access to social protection (and employment services) for people in all forms of employment.

This initiative is foreseen in the European Pillar of Social Rights (EPSR) ¹, and aims at implementing key rights of all working people concerning social protection, regardless of the type and duration of their employment relationship, embodied in a series of principles². The initiative therefore primarily targets the right for all workers and self-employed³ to adequate social protection (Principle 12⁴), as well as the right to adequate unemployment benefits and activation support from public employment services (principle 13), to adequate old-age income and pensions (principle 15) and access to good quality healthcare (principle 16), to active support to employment (principle 4) and secure and adaptable employment (principle 5).

In April 2017, a first phase consultation was launched⁵, along with the publication of the ESPR to which the ETUC responded with a comprehensive position⁶.

The present consultation aims at gathering social partners' views on possible avenues for EU action to address the challenges of existing gaps. These possible avenues concern: objectives of coverage, transferability and transparency; options of mandatory or voluntary formal coverage; appropriate actions to ensure effective coverage; minimum requirements appropriate to ensure transferability and transparency.

In addition, the consultation examines social partners' willingness to enter into negotiations with a view to concluding an agreement under article 155 TFEU.

¹ The Social Pillar "Package" is available online: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en#documents

² Published on 26 April 2017, available online <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1494929441507&uri=CELEX:52017SC0201> and complementing the EC Communication <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2017:0250:FIN>

³ Ref. to the wide scope of ILO Recommendation 198, including all non-standard workers such as digital platform workers

⁴ "Regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection".

⁵ First phase consultation document: <http://ec.europa.eu/social/BlobServlet?docId=17616&langId=en>

⁶ ETUC position on first phase consultation available here: <https://www.etuc.org/documents/etuc-position-first-stage-consultation-eu-social-partners-possible-action-addressing#.WipYI0rtxPY>

The ETUC welcomes the opportunity to submit its views on the challenges of the existing gaps in social protection and its proposal for addressing them. In this phase of development of the initiative, the EU must make crucial policy and legislative decisions to ensure the effectiveness of a much-needed intervention.

Leading principles for an ambitious and necessary EU initiative

Already in the first phase consultation the ETUC⁷ identified the main lines along which a renewed approach to social protection should be pursued: ensuring **equal social protection rights for equal work to people in all forms of employment**; upgrading working conditions and **adequacy** of social protection for all, in a logic of upward convergence; ensuring **solidarity and fairness** in social protection by designing collective systems, whether tax- or insurance-based, to which **people contribute equally and proportionally to their capacity and benefit from according to their needs, as for at least adequate minimum provisions and fall-back safety nets**.

Designing the initiative along these lines responds to the persistent challenges of inequality, poverty and exclusion⁸, conforming to the Sustainable Development Goals⁹, the spirit and the aims of the EPSR and the macroeconomic governance indications of the Annual Growth Survey 2018 which favours the distributional effects of structural reforms for inclusive growth, upward convergence and competitiveness¹⁰.

People in all forms of employment, regardless of the type and duration of their employment relationship, must have *equal* access to *adequate* social protection and to the full range of employment services for re-insertion into the labour market. Thus:

Equal level of protection in force for standard employees must be ensured to all working people, to erase differences and discrimination linked to type and duration of employment relationships in effective social protection against life risks and job loss.

All people in all forms of employment should mandatorily and equally contribute to the systems, in line with provisions in force for standard employees. Everyone must benefit from social protection systems.

Enforcing these principles should create a more level playing field – de jure and de facto – for everyone in employment to enjoy better conditions, protection against life risks, upward convergence and distributional effects.

- A European initiative on equal access to adequate social protection must therefore rely on an extended guarantee of **equal treatment**, beyond the scope of the existing Union *acquis* also encompassing job transitions and the cross-border dimension.
- **Solidarity** and fairness should be a component of social protection schemes. Progressivity should be applied to contributions and performances, within public and collective schemes that remain the backbone of social protection schemes covering all, for both employed and self-employed.

⁷ ETUC position on first phase consultation available here: <https://www.etuc.org/documents/etuc-position-first-stage-consultation-eu-social-partners-possible-action-addressing#.WipYI0rtxPY>

⁸ Analytical Staff Working Document, <http://ec.europa.eu/social/BlobServlet?docId=18596&langId=en>

⁹ to which the EU committed itself – Ref. ILO World Social Protection Report on first progress of implementation of target 13.1.1, available online: www.social-protection.org/gimi/qess/RessourcePDF.action?ressource.ressourceId=54887

¹⁰ 2018 AGS

Inclusiveness of social protection systems must be pursued, as functional to both social and labour market inclusiveness¹¹. 'Better complementarity between labour market and social integration systems will help all vulnerable groups, generate increased prosperity for all and create stronger social cohesion'. This is key "to qualify public expenditure for inclusion of disadvantage categories such as women, people with disabilities, with a migrant background, young and elderly and low skilled workers"¹².

Adequacy is a key condition for the system to function and produce a positive impact, allowing working people to have the necessary means to live in dignity and be actively included in society.

Effectiveness must be ensured, enabling all working people, regardless of their employment status, to have *de facto* access to adequate social protection. Overall coverage should be accompanied by mandatory contributions, on top of equal and fair remuneration.

Sustainability must be pursued, to serve inclusiveness, adequacy and full coverage. It must be pursued making social protection systems accessible to all and ensuring that all can contribute to it. Collective and solidarity-based financing – through fair and progressive taxation and/or social insurance - is the best way to build long-term sustainability of social protection systems. It eases pressure on various safety nets of last resort greater social fairness. towards those contributing to the system. It strengthens social solidarity of welfare systems, and preserve resources for social assistance to the most in need.

The 2018 Annual Growth Survey recommends that: "Member States should ensure the sustainability and adequacy of welfare systems for all. This requires ensuring equal opportunities for all workers, including the self-employed, to acquire pension and social protection rights".

The initiative on equal access to social protection for people in all forms of employment can be the opportunity to renew the 'social contract' among welfare states, working people and the world of business.

The EU instruments to ensure equal access to social protection for all working people

If Member States cannot achieve the above-mentioned objectives alone, a European initiative should ensure these characteristics apply to and inform social protection schemes. The EPSR commits the EU, the European Parliament and the Member States to undertake legislative initiatives to enforce its principle and rights. It should be a compass to ensure equal and adequate social protection rights and more social as well as labour market fairness.

Hence, the ETUC supports a legislative instrument to set minimum binding principles and requirements for gradual implementation in Member States of an equal right to access to social protection. The most appropriate instrument is a Directive. The implementation of such right via a Directive should encompass people in all forms of employment, including all types of non-standard work as well as all forms of self-employment.

¹¹ Analytical SWD, p. 55

¹² Annual Growth Survey 2018, https://ec.europa.eu/info/publications/2018-european-semester-annual-growth-survey_en

Should it be necessary to propose the adoption of two Directives, due to the different legal bases in art 153 and 352 TFEU dealing with the issue, it is crucial to ensure the mutual coherency of both legal instruments, and consistency with the overall aims of the initiative and ultimately of the EPSR.

In addition, the legislative proposal(s) should be accompanied by appropriate flanking measures, ensuring enforceability and concrete implementation of the principles stated in the Directive(s).

In particular, it is crucial to foresee proper budget allocation for Member States to ensure adequate provisions. EU co-financing options, including through existing EU structural funds, should be considered to support and complement national social protection systems when facing critical unemployment, social exclusion and poverty.

2nd stage consultation on equal access to social protection and employment services for people in all forms of employment, regardless of their employment relationship and its duration.

The ETUC welcomes the opportunity to elaborate further its overall views presented in the 1st stage consultation and to put forward concrete proposals on access to social protection.

I. What are your views on the possible avenues for EU action set out in section 4 of this document regarding non-standard workers and the self-employed, including

a. The overall objectives of coverage, transferability and transparency

The ETUC supports the Commission's continued objectives of coverage, transferability and transparency in the 2nd phase consultation document. The ETUC also generally agrees with the overall arguments outlined in support of these objectives by the consultation document.

The issue of "formal and effective **coverage** of non-standard workers and self-employed by social protection on the basis of contributions" is of utmost importance and must be maintained in the EU initiative.

Equally important are the objectives of **transferability** of rights and entitlements, in a cross-border dimension as well as in job transition, including across different types of employment or between employment and self-employment.

Making the administrative requirements simple, clear and **transparent** must also be one of the objectives to facilitate the changing nature of work and development of people's careers.

The three objectives are mutually important for the effectiveness of equal rights in social protection, and must be pursued coherently with the initiatives announced in the Social Fairness package, including an initiative on a European Social Security Number and a proposal to establish a European Labour Authority.

Despite this support and general agreement, the ETUC has some serious criticisms of the consultation document.

➔ **The ETUC strongly criticises the lack of an explicit reference to *adequate social protection in the present consultation document.***

Such an omission goes directly against the wording and the intention of the EPSR principle on social protection, which clearly refers to adequate social protection.

Adequacy of social protection benefits is a precondition for the effectiveness of the system itself and for it to meet its objectives to provide income support in case of need, and address the challenges of inequality and poverty, thus contributing to inclusive growth and upward convergence. Inadequate benefits would not improve the situation of those in need, and would result in a pointless dispersion of resources. Member States are instead asked to provide adequate benefits and take into account the distributional impact of reforms when designing and implementing structural policies¹³.

In relative terms, providing social protection and employment services to people in all forms of employment **to the upward level of protection generally granted to employees within national systems** seems to be the viable option to ensure both equality of treatment and a certain level of adequacy.

However, such an extension must not prejudice upward revisions of overall adequacy standards for all.

In this framework, it is also crucial to prevent any trade-off between adequacy and enlarged coverage of social protection, or any reductive impact on the level of protection currently ensured to employees. A Directive should therefore foresee a general non-regression clause.

➔ **The definition of worker for the purpose of the coverage objective.**

The ETUC believes that the aim of the present initiative is to affirm a right equally accessible for all working people. The definition of a worker must be as broad as possible to capture all non-standard forms of employment and must be coherent with the definition stipulated in the Written Statement Directive.

For this reason, regardless of definitions, the initiative must be as comprehensive as possible. It must capture all possible forms of non-standard work *and* self-employment, including any contractual relationship resulting from changing patterns of business, production or work.

The rationale is that equal social protection rights should not be negotiable or subject to opt out.

Consequently, the coverage should not allow any restriction or possible circumvention for the very sake of the objectives outlined in the consultation document: “ensuring that everyone in employment or self-employment has formal and effective access to social protection”.

➔ **Hence, the personal scope of the initiative should cover “everyone in employment or self-employment”, thus encompassing all forms of non-standard work and definitively all forms of self-employment.**

¹³ AGS 2018, p. 10

It should aim at protecting all non-standard workers, including self-employed and people who work for digital platforms. Issues of unlawful juridical reclassification of bogus self-employed are not a matter for this initiative and should be addressed in appropriate contexts. However, addressing access and equalisation of social protection rights (and costs) to those of employees would certainly reduce the attractiveness of illegal or elusive practices.

People working under civil law contracts should be included too.

→ **The material scope of the initiative has been broadly defined already in the first stage consultation.**

The ETUC reaffirms the importance of an integrated and holistic approach to social protection, with a universal coverage and including all branches covered by ILO Convention 102. The EPSR principle on social protection (as stated in the Staff Working Document) should be interpreted as encompassing all possible branches of social protection, to be ensured to citizens and residents, and generally financed by taxes, as well as benefits linked to work and employment, often financed by insurance-based systems.

If a certain gradualism is required, the material scope of the initiative should at least cover the following branches of social security, which are more closely related to the status of worker rather than citizen or resident, and may be partly financed by benefit recipients: pensions, sickness benefits, invalidity benefits and benefits in respect of accidents at work and occupational diseases, unemployment benefits, maternity and equivalent paternity benefits.

With regards to employment services, the material scope of the initiative shall include: guidance, counselling and placement, training and skill-updating, requalification, rehabilitation and re-insertion measures.

Safety nets should also be envisaged for people in all forms of employment who do not reach the necessary threshold to benefit from social security systems even when contributing to them. An effective balance must be guaranteed between *equality of access* to social protection for all workers on the one hand, and *adequacy and inclusiveness* of social security systems' provisions on the other, implying all possible parallel funding solutions to ensure fiscal sustainability to enforce all these goals (see below).

b. The options of mandatory or voluntary formal coverage

→ **The ETUC firmly believes that contribution to the social security systems must be mandatory, and that rates must be equalised to those in force for standard employees for people in all forms of employment.**

According to the EC's own analysis, gaps and differentials exist in formal access to social protection, corresponding to gaps and differentials in the level of contributions paid by people in different forms of employment¹⁴.

¹⁴ "The level of social contributions from the self-employed is significantly lower than that of employees, taking into account both employees and employers contributions, though it is similar to the level of employees' contributions only SWD pp. 43, 51, 53, 55, 57

Opting for voluntary or different contribution rates would be detrimental for the financial sustainability of the systems, for the main solidarity principle at their base, and would worsen the current situation of fragmentation of entitlements, jeopardise coverage, access and level of benefits. It would also be detrimental to transparency aims. Furthermore, it would not prevent the abuse of precarious employment relations aimed at eluding contributory payments by the employer/customer/intermediary.

Voluntary coverage would still not be chosen by many self-employed, who would be pushed to face the risk and not get any social insurance – thus remaining uncovered or eventually falling on public assistance. The whole initiative would be drained of its objectives and ambitions. It creates disparities among workers and distortions on the labour market.

“A differential coverage of social protection and employment-related services, has been criticised and documented as both unfair and inefficient. Such differences in treatment are seen as representing a regulatory failure that distorts the playing field between people employed on standard contracts and people in non-standard work or in various forms of self-employment, bringing moral hazards and opening for free riding”¹⁵.

These phenomena must be prevented and avoided, as a matter of effectiveness, equality, fairness, solidarity and especially of fiscal sustainability of the systems¹⁶.

Formal mandatory coverage, together with the alignment of non-wage related costs, guarantees that everyone contributes to the system proportionally to their wage, capacity and work, thus ensuring fairness as well as sustainability of the system.

Clearly, it must be guaranteed that mandatory social contributions for working people come on top of, not deducted from, remuneration.

c. The appropriate actions to ensure effective coverage

With regards to **effective coverage** the ETUC believes it should be achieved by gradually **extending and adapting existing schemes to people in all forms of employment**.

As mentioned above, the adequate reference level and terms of protection for people in all forms of employment should be aligned to the standards fixed for standard employees. The contribution to the social security system should be not only mandatory, but:

➔ **contribution rates of people in all forms of employment should be aligned/equalised to those in force for standard employment, as established by law and/or collective bargaining.**

Different (just like voluntary) contribution rates would leave equal treatment objectives unmet; would be detrimental for the financial sustainability of systems and the main solidarity principle at their base; would worsen the current situation of fragmentation of entitlements, jeopardise coverage, access and level of benefits; would not prevent the abuse of precarious employment relations; would also be detrimental to transferability aims.

¹⁵ SWD, p. 51

¹⁶ SWD, p. 53, 55, 57

On the contrary, aligning non-wage related costs would nullify the reasons to seek economic and competitiveness advantage on social security, which only produce social dumping and downward competition at the expense of the lives and rights of workers. Such a level playing field would ensure that people in all forms of employment have equal access to social security; they would equally contribute to the systems and would therefore legitimately be entitled to receive equal benefits, in proportion to their effective amount of contribution.

→ **With regards to the design of contribution obligations between working people and employers/customers/intermediary: who should bear the costs?**

The initiative should also clarify that **the allocation of contributory obligation should follow the same criteria applied to standard employment: the share allocation on working people and on the employer/customer/intermediary respectively should be the same as for standard employees for all workers.**

Although it is often but not always the case in standard employment relations across Europe, **contributory share charged on workers should be lower than the one charged on employers.**

This takes into account the fact that the differential in terms of contribution between standard employees and self-employed in the last decade is represented by the contribution rate that in standard employment is up to employers to pay.

Appropriate measures should therefore be enacted and ensure that the distribution of contributory obligations is fairly and effectively made following the main principle.

In non-standard employment and self-employment, it is crucial to **correctly identify the employer/intermediary/customer** responsible for social security payments. In particular, it is fundamental that in triangular employment relationships (temporary labour agencies, digital platforms...), it must be clearly defined who is responsible for the payment of the social security contributions and/or taxes, with a primary responsibility for the intermediaries.

Furthermore, it must be ensured that the additional costs for an employer/intermediary/customer linked to contributions are not evaded, eluded (legally avoided), or unfairly deducted from the remuneration/wage.

Appropriate parallel/flanking measures could mean that the invoice/employment contract clearly displays the share and the amount of contribution respectively borne by the worker and the employer, as well as the net remuneration, to which contributory obligations shall be added.

Contributory obligations could be paid directly by the employer/intermediary/customer whenever possible, at least for the share due by the employer.

In order not to affect net income levels, tax deductions could be foreseen, for example entailing the reduction of the tax base corresponding to the amount of paid contributions, for both sides. In several Member States contribution payments are treated as a wedge or a burden, not as part of the right to a fair and adequate remuneration due to the worker for future needs. In this sense, many Member States have wrongly proposed measures allowing a “discount” on remunerations, namely the non-wage related part, with the aim of incentivising employment. Experience has proved that such activation policies may be useful in specific and limited circumstances but are not a panacea, and can threaten public budget sustainability for social protection and increase unfairness. Public incentives should be tailored and restricted to specific situation, and not distributed indiscriminately. Alleged risks or dropping employment levels due to higher labour costs are not proved to be directly related, whereas it is proved that the main fiscal basis of social insurance results is eroded by non-standard employment, with negative consequences for fiscal sustainability. On the contrary, the AGS for 2018 indicates that fair remuneration is crucial to reduce inequalities and ensure high standards of living.

Wages and social contributions should be growing coherently with productivity increase, in order to ensure better income levels, more labour market inclusiveness, better protective and redistributive mechanisms, and eventually less social inequality.

Measures should also aim at protecting effective income and remuneration levels. Recurrent challenges like economic dependency, weak bargaining power and lack of collective bargaining coverage of non-standard and self-employed lead to low earnings and exclusion from collective agreements. This situation harms the very enforceability of equal access to at least minimum social protection benefits as well as its fiscal sustainability, since very low remuneration will correspond to very limited contributions.

Parallel and flanking measures should encourage Member States, in consultation with national social partners to adopt necessary measures to ensure that vulnerable workers, such as self-employed and non-standard workers, fully enjoy:

- The full set of guarantees deriving from the freedom of association, the right to organise and collective bargaining and benefits from trade union rights as those enjoyed by standard workers;
- Collective bargaining coverage where relevant;
- Minimum wages or remuneration established by collective bargaining and/or legislation, calculated on a daily or hourly basis, consistent with the type of contract;
- The general application of the principle of equal remuneration for equal work or service, with average/minimum set by collective agreement applicable to the sector as a reference.

➔ **With regards to adequate minimum safety nets for social protection**

At the moment, not all people in non-standard employment, although working and contributing to the system proportionally to their work, are able to meet the eligibility conditions to have access to **adequate minimum benefits**, due to the insufficient contribution level from their low remuneration or to insufficient work duration/time.

If these people contribute proportionally to their work duration/time, they should be able to access a minimum and **adequate** range and level of social security and protection benefits as well of employment services, **regardless of the type and duration of their contract and working time.**

Wherever a minimum threshold of contribution to access adequate benefits cannot be reached by workers, Member States should intervene and complement the fulfilment of minimum requirements to ensure all workers minimum adequate social protection (in particular pension and unemployment schemes).

On the other hand, wherever the situation of the labour market does not allow workers to meet requirements to access adequate benefits, Member States must guarantee adequate social assistance, with income replacement and additional income benefits for all those in need.

Adequate minimum income schemes can be therefore considered as important complementary tools to guarantee adequate protection for all workers, and in particular for non-standard, atypical and self-employed workers. This is already the case for most EU Members States, although the adequacy of these schemes remains to be addressed.

However, it must be clear that the most efficient way to address the sustainability and the adequacy of safety nets is by addressing precariousness, low remuneration levels and contributory inequality, which are linked to in-work poverty and lack of entitlement to social security. In this sense, Member State complements mentioned above, and adequate **minimum income schemes** should be seen as *necessary* schemes but yet as schemes of last resort, and not as systematic replacements for well-functioning social benefit systems.

Therefore, the central objective must be to design and improve the upstream forms of social security so that as few people as possible need such minimum safety nets, and to reduce financial burden for public budgets. Systemic efforts must therefore be made, as stated above, to improve working (including contributory) conditions, and to grant adequate remuneration and wages, never below a minimum level.

In order not to place the whole burden of the safety net on public budgets, parallel flanking measures could be envisaged.

While the ordinary contribution rates should always be equalised to those due to employees in the reference sector, below a certain working time/contract duration, the contributory obligation on employers/customer intermediary could not only be proportional to work (-ing hours) performed and remunerated, but could also foresee additional compensatory contributions, in exchange for flexibility, to participate in the guarantee of minimum protection for workers. Other measures could concern social contributions for which employers are responsible that may not imply immediate payments, but still ensure benefit provision whenever necessary.

Forms of mutualisation of safety-net benefits can be considered, with both sides contributing to sectoral funds that guarantee minimum benefit coverage and adequacy to workers who cannot enjoy it through ordinary contribution. Such funds can be introduced by collective agreements and be managed by social partners, in line with governance, transparency, equality and efficiency principles, on rationalisation and functioning of social security schemes.

→ **With regards to the design and the functioning of insurance systems and funds**

They would also play a role in ensuring that the right to full, effective, predictable and durable cumulation and totalisation of contributions is not subject to the type of contractual relationship, nor to its duration. Hence:

- **contributions should be effectively cumulated and totalised**, and not get 'lost' because they are too low, or discontinuous;
- the **same cumulation and totalisation rules for (equalised) contributions shall apply to all**;
- **benefit redistribution conditions and rules shall be the same equalised** for all, in proportion to the cumulated contributory entitlements.

The cumulation and totalisation principles should be accompanied by clear eligibility conditions and should ensure predictability and certainty of access and level of benefits.

d. The minimum requirements appropriate to ensure portability and transparency.

Effectiveness and predictability of cumulation and totalisation principles are functional to maximise the contributory potential in case of multi-employer situations, and to transferability and transparency.

Full portability should be guaranteed across different systems and funds, when workers change their employment in the labour market so that the provision of the same benefits in the same conditions can be achieved in practice. Obligatory and equalised contribution rates, as well as cumulation and totalisation systems, must be accompanied by harmonised and equal accounting and redistribution mechanisms for all. The design of such mechanisms must ensure that contributions actually result in access to benefits in case of transition across sectors or cross-border.

It is necessary that the Member State systems are adapted so as to provide

- Minimum universal requirements and rules for all insurance system/fund for the cumulation and totalisation of contributions and calculation of benefits
- Harmonisation of calculation systems among different insurance funds, including those at sectoral level, beyond the minimum requirements
- Clear conditions and effective guarantees in case of transfer

Such measures must be consistent with a framework of rules for coordination of social security systems able to grant a fair and freely chosen mobility for all¹⁷.

→ **With regards to transferability and transparency**

As mentioned above, all contributory entitlements should be full, predictable, transparent and portable and should result in equal social security benefits and employment services for all workers, regardless of change of employer, employment status, sector/category, transition in and out of employment, within Member States and the EU.

¹⁷ See ETUC Position on the EC proposal for the revision of Regulation 883/2004 on the coordination of social security systems, https://www.etuc.org/documents/etuc-position-ec-proposal-revision-regulation-8832004-coordination-social-security-systems#.WjePM9_txPY

Member States should provide user-friendly, easily accessible and up-to-date information on the social protection benefits that each worker has acquired, in particular as regards pension rights.

Tying social protection entitlements to individuals and their contribution history must ensure workers more transparency and awareness. However, it must be clear that adapting systems to support individuals must **not** lead to an individualisation of social security. The collective dimension of social protection must remain prominent and must not be undermined by individualistic distortions.

Member States should provide user-friendly, easily accessible and up-to-date information on the social protection benefits that each worker has acquired, in particular as regards pension rights. The initiative on a European Social Security Number would be a useful complement.

Such rationale should be equally applied to and within all types of funds and insurance schemes which provide the benefits at stake (with sectoral reference, where relevant): pensions, maternity and paternity benefits, invalidity, sickness and occupational diseases, unemployment, training, rehabilitation reinsertion entitlements.

→ **With regards to the (combination of) schemes to be used**

Principles of equalised calculation, totalisation and portability not only mean that workers are not discriminated against in their redistributed benefits or penalised by mobility regarding their right to equal access to benefit when needed. **Such principles also work in support of the sustainability of the systems, especially the public and statutory ones.**

Public statutory systems, collective and solidarity-based, prove to be the most, efficient and best performing in most of Member States, ensuring coverage, resilience, solidarity, equality, fairness, transparency, universality of rights and rules, as well as effectiveness of social protection. The ETUC believes that **public systems should be privileged, fostered and supported.** Monitoring should take place to ensure that collective voluntary or statutory systems (for example second pillar pension funds) are able to provide the same conditions and guarantees of performance.

Private (including collective) systems based on insurance funds *beyond statutory requirements* (established by law and collective agreement) should be **voluntary and additional.** Such complementary schemes should respond to specific governance and transparency rules, and Member States should monitor that their use does not undermine the general system.

Member States might wish to look at the efficiency and capability of autonomous collective funds, existing in certain sectors or for certain categories of workers, and at their effectiveness in providing benefits for those contributing to them.

II. Are the EU social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in section 4 of this document?

Already in the first stage consultation the ETUC has affirmed its availability to negotiate with European-level employers' organisations on access to social protection for people in all forms of employment. However, the employers' side did not seem to be equally available. The ETUC is convinced that the conditions for formal negotiations under Article 155 TFEU no longer exist.