

Chapter 2

Law and practice in the provision of basic guarantees for income security and essential health care

40. The conclusions concerning social security (2011), identify the establishment of nationally designed social protection floors that guarantee minimum income security and essential health care as the priority for the extension of social security.¹ This chapter examines how guarantees for basic income security and essential health care throughout the life cycle are organized in different countries against the background of the provisions of the relevant ILO standards and the related international legal and conceptual framework.² It also draws on the conclusions concerning social security (2011). It refers to the law and practice in countries that provide these guarantees for the population, including both an analysis of the process of how schemes are set up and managed and the kind of benefits they provide in terms of eligibility criteria, benefit levels, the duration and accessibility of benefits, etc. In view of the object and purpose of the possible Recommendation, this chapter will deal almost exclusively with non-contributory schemes aimed specifically at covering those with no or insufficient protection through statutory schemes. It addresses the questions of who gets what, when, how and why, in terms of basic income security and essential health care.

41. The chapter draws on and supplements the information in the report for the recurrent discussion on social security, the General Survey concerning social security instruments (2011) and previous relevant ILO studies and research.

¹ Conclusions concerning social security (2011), in the appendix.

² For reasons of conciseness, this part focuses on the main UN instruments and ILO social security standards, those which have been the most widely ratified and/or which are considered to be references, namely the Universal Declaration of Human Rights, 1948, (UDHR); the International Covenant on Economic, Social and Cultural Rights, 1966, (ICESCR); the ILO Convention No. 102; and Recommendation Nos 67 and 69. It may be noted that the UDHR has only a declarative character and does not contain binding provisions and therefore does not have a supervisory mechanism, while the ICESCR, which gives effect to the UDHR, is binding for ratifying States. Its application is supervised by the Committee on Economic, Social and Cultural Rights (CESCR). For these reasons reference is made throughout this chapter to the interpretation of the right to everyone to social security laid down in the ICESCR by the CESCR.

2.1. Population coverage ³

2.1.1. The international legal and conceptual framework

42. The human right to social security, as laid down in the UDHR was recognized and reiterated by the 2011 ILC, and the ILO's commitment to achieving adequate social security for all, in the pursuit of its constitutional mandate.⁴ Universal coverage was thus stated as an essential principle on which national strategies for the extension of social security should be based and towards which they should progress.⁵

43. In addition to the UDHR, the ICESCR ratified by 160 States, lays down the right of everyone to social security.⁶ In its General Comment No. 19 on the right to social security (Art. 9), (CESCR General Comment No. 19),⁷ the Committee on Economic, Social and Cultural Rights (CESCR)⁸ spells out the key features of this right and the content of respective States' obligations. It notes that States parties are obliged to progressively ensure the right to social security to all individuals within their territories.⁹ For such purpose, all persons should be covered by the social security system, especially individuals belonging to the most disadvantaged and marginalized groups, without discrimination on any of the grounds prohibited under the ICESCR.¹⁰ It further adds that: "In order to ensure universal coverage, non-contributory schemes will be necessary."¹¹

44. The conclusions concerning the recurrent discussion on social protection (social security) translate the principle of universality as referring to the universal protection of all residents by a defined set of essential social security guarantees (constituting a national social protection floor) to be achieved as quickly as possible.¹² This "does not necessarily imply that the nature of the benefits, as well as the organization that reaches out to recipients, should be identical for all population subgroups".¹³ "Inevitably, universal coverage may, in some cases, assume the character of a progressive development objective to be reached within a specific time frame. Not all countries are

³ For further information see also *Extension guide*, Chapter 2.1.1; Report for the recurrent discussion on social security, Chapter 5.1; General Survey concerning social security instruments (2011), Part III, Chapter 1 B.

⁴ Conclusions concerning social security (2011), para. 5.

⁵ *ibid.*, para. 12.

⁶ ICESCR, article 9.

⁷ CESCR: General Comment No. 19: The right to social security (Art. 9), adopted at the 39th Session, 5–23 November 2007, Doc. E/C.12/GC/19 (UN).

⁸ The UN CESCR is the independent expert monitoring body in charge of interpreting and ratifying States' obligations under the ICESCR and of examining States' compliance with their obligations under this instrument. See CESCR General Comment No. 19.

⁹ CESCR General Comment No. 19, para. 4.

¹⁰ *ibid.*, para. 23. As specified in para. 29, these grounds include "... race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, and civil, political, social or other status, which has the intention or effect of nullifying or impairing the equal enjoyment or exercise of the right to social security".

¹¹ CESCR General Comment No. 19, para. 23. With regard to non-contributory schemes, and pension schemes most particularly, see also the Recommendations of the independent UN expert on the question of human rights and extreme poverty regarding cash transfer programmes and non-contributory pensions, UN General Assembly Doc. A/HRC/14/31 (31 March 2010).

¹² Conclusions concerning social security (2011), para. 9.

¹³ Report for the recurrent discussion on social security, para. 363.

able to afford a complete range of social security benefits or have the logistical systems in place to reach the entire population immediately.”¹⁴ Nonetheless, universal protection should be stated as a clear objective, that may have to be achieved progressively.

2.1.2. National law and practice

45. There is a vast variety of strategies that countries have adopted to realize the goal of providing a minimum level of social protection to all members of society based on contributory, subsidized or non-contributory financing methods; providing entitlements to all or targeted to specific levels of income, age groups, geographical regions, sectors or skill levels; making benefits conditional or unconditional and delivering benefits in cash or in kind.

*Countries with mature systems*¹⁵

46. Some countries like Austria, Belgium, Denmark, Finland, Germany, the Netherlands and Sweden have reached quasi universal coverage, whereas in Bulgaria, Greece, Italy, Latvia, Lithuania, Malta, Poland and others, coverage remains incomplete. With the exception of Greece and Italy, all Member States of the EU-27¹⁶ have some form of means-tested, non-contributory minimum income scheme that operates at national level. They essentially operate as a last resort for all those in need but not covered by social insurance payments or whose entitlements have expired, thus aiming to ensure universal coverage. Most schemes are focused on people who are out of work, but in some States they also supplement the income of workers with very low wages. The extent to which States succeed in providing coverage for all varies. Coverage gaps are often reported for specific groups even in the more comprehensive schemes, e.g. undocumented migrants, homeless or young people. Some countries such as Latvia, Slovenia and Slovakia report that recent trends of tightening eligibility criteria and increasing conditionality have led to reduced coverage. Furthermore, non-take-up due to the complexity of the system, stigma, poor administration or insufficient information on entitlements is an obstacle for universal coverage, for example in Austria, Belgium, Czech Republic, Denmark, Finland, Germany, Hungary, Portugal and United Kingdom.

Countries that were able to close certain coverage gaps quickly

47. Some countries that faced challenges of large coverage gaps developed innovative schemes that achieved a rapid extension of social security to (almost) the entire population for certain contingencies or a whole package of social security guarantees. Rapid progress with respect to population coverage can be observed over the last decades in national health protection in several countries. In Asia, for example China, Republic of Korea, India, Sri Lanka and Thailand have reached complete or near complete population coverage in a relatively short period. Most of these schemes rely on mixed financing models.

¹⁴ *ibid.*, para. 364.

¹⁵ This paragraph summarizes findings from *Minimum Income Schemes Across EU Member States – Synthesis Report* by the EU Network of Independent Experts on Social Exclusion, Oct. 2009, for more information on coverage of various contingencies, see *World Social Security Report 2010/11*, Chapters 3–6; Report for the recurrent discussion on social security, Chapter 3; *General Survey concerning social security instruments* (2011) Part III, Chapter 1; and *Extension guide*, Chapters 2.1 and 2.2.

¹⁶ The EU-27 includes the following countries: Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, Germany, Estonia, France, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Spain, Sweden, United Kingdom.

48. Further examples of successful social security extension efforts are provided in table 1 below. Strong political commitment, the dedication of the necessary financial resources, innovative approaches and the use of new technologies for the benefit, design, delivery, management and monitoring as well as a participatory approach for the design, implementation and management, were decisive success factors in achieving this progress. In some cases pragmatism with respect to designing mixed forms of financing also contributed to the success of these schemes.

Table 1. Coverage levels of selected tax- and mixed- financed social transfer schemes in middle income countries

Programme	Type	Coverage
Argentina, <i>Asignación Universal por Hijo – Asignación Familiar</i>	Conditional universal child allowance Contributory family allowance	86% of Argentinian children and adolescents under 18
Plurinational State of Bolivia, <i>Renta Dignidad</i>	Universal old-age pension	97% of total eligible beneficiaries
Brazil, <i>Bolsa Familia</i>	Means-tested conditional cash transfer	26% of the total population (estimated at 94% of the target group of extremely poor families with children)
Brazil, Rural Social Insurance Programme	Social pension for old age, survivors, disability, sickness and maternity	80% of small self-employed farmers, 66% of the rural population
China, Minimum Living Standards Guarantee	Social assistance	All households with income below official thresholds (5.4% of the population received benefits from the scheme in 2010)
Colombia, The General System of Social Security in Health	Universal health coverage	90% of the population
Ghana, National Health Insurance System	Universal health care	30–70% of the population
Mexico, <i>Oportunidades</i>	Means-tested conditional cash transfer, providing also benefits in kind, e.g. access to basic health care and nutritional supplements	25 million people, 25% of the total population ¹
South Africa, Child Support Grant	Means-tested cash transfer	78–80% of total eligible children
Thailand, Universal Coverage Scheme	Universal health care	75% of the population

¹SEDESOL, 2008, *Oportunidades*, Presentation during the Operational Workshop 2008, http://archivos.diputados.gob.mx/Comites/Inf_Gest_Quejas/Taller_Operacion_2008/PONENCIAS/10_Oportunidades.pps [accessed 10 July 2011].

Source: ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011); and country information.

2.2. The range of benefits provided with respect to the social protection floor guarantees¹⁷

2.2.1. International legal and conceptual framework

49. The appendix to the conclusions concerning social security (2011) contains an explicit mention of the types of benefits, or guarantees which should be provided under national social protection floors. These four basic social security guarantees are nationally defined minimum levels of income security during childhood, working age and old age, as well as affordable access to health care.

50. These correspond to the core content of general elements of the right to social security as laid down in the UDHR and ICESCR¹⁸ as well as the contingencies to be covered under ILO Recommendations Nos 67 and 69.

51. On this basis, the set of essential guarantees provided under national social protection floors, in order to ensure protection against major risks throughout the life cycle, should aim to achieve a situation in which:

- ❑ all residents have the necessary financial protection to afford and have access to a nationally defined set of essential health-care services, including maternal health;
- ❑ all children enjoy income security, at least at a nationally defined minimum level, through family–child benefits in cash or in kind aimed at facilitating access to nutrition, education and care;
- ❑ all residents in active age groups who are unable to earn sufficient income on the labour market enjoy minimum income security through social assistance, maternity benefits, other social transfer schemes in cash or in kind or through public employment programmes; and
- ❑ all residents in old age and all residents with a disability to the extent that it excludes them from gainful activity enjoy income security at least at a nationally defined minimum level, through benefits in cash or in kind for old age and disability.

2.2.2. National law and practice

52. While most States acknowledge the relevance of each contingency and undertake efforts in each of these areas, only a few States outside of Europe and the OECD have established an explicit policy to create a complete social protection floor below which nobody should fall in the sense of providing a defined set of well-coordinated minimum guarantees for income security and access to medical care throughout the life cycle. However, there are examples¹⁹ of countries with a fairly wide range of minimum guarantees:

- ❑ In Brazil, the unified system of social assistance, national system for food and nutrition security and cash transfer schemes (*Bolsa Familia* – family grant, benefits

¹⁷ For more information on the scope of coverage see *Extension guide*, Chapter 2.3; Report for the recurrent discussion on social security, Chapter 3; *World Social Security Report 2010/11*, Chapter 1.2.

¹⁸ See CESCR General Comment No. 19, and more particularly paras 2 and 59–61.

¹⁹ Taken from ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), Chapters 3, 7, 13 and 16.

for the elderly and disabled and those living in poverty) provides a comprehensive package of benefits for those in need.

- ❑ The social protection system “Red protege” in Chile, elaborated between 2006 and 2010, supports and guides people throughout their life cycle. “Red protégé” is organized in three core parts or subsystems: the poverty and vulnerability social protection system (*Chile Solidario*); the comprehensive child social protection system (*Chile Crece Contigo*); and the labour social protection system.
- ❑ The Vivir Mejor scheme (Live Better) in Mexico is an integrated social strategy of inter-institutional coordination that takes into account the entire life cycle of individuals and their families. It includes all programmes that provide access to education, food, health and decent housing for Mexico’s poorest families and safety net programmes that enable citizens to better deal with the contingencies and risks that may arise throughout life.
- ❑ In South Africa, the Government adopted a broader social protection framework, which aims to guarantee both social transfers (access to health care, financial support for children, financial support in old age, protection for the working-age population) and basic social services (free basic services, including subsidized housing and free basic electricity).

53. The following sections analyse the replies to the General Survey concerning social security instruments (2011) with a view to observing the degree to which countries have achieved the above four social protection floor guarantees. Several countries²⁰ reported that they plan to establish a set of basic guarantees for income security and access to medical care for all.

*Income security throughout the life cycle*²¹

54. There is an emerging body of national experiences from the past two decades of countries that are committed to providing a social protection floor for their populations. The most common form of non-contributory minimum income guarantees are social pensions, followed by child or family benefits. Only a few States provide income security for people of working age – through unemployment insurance, social assistance benefits or through employment guarantee schemes. Social assistance schemes and unemployment insurance are common in States with large formal economies and mature social security systems. Social assistance typically provides means-tested benefits to persons unable to generate sufficient income through work, and who do not or no longer qualify for unemployment insurance or other (contributory) social security benefits. Other countries provide social assistance or other benefits to vulnerable groups of the population which correspond to elements of the social protection floor but often in a fragmented and discretionary manner.

55. The innovative approach of employment guarantee schemes to provide income security through a minimum number of days of guaranteed employment per household per year or unemployment benefits was pioneered by India through its Mahatma Ghandi National Rural Employment Guarantee Act (NREGA).²² Many countries provide ad hoc

²⁰ Antigua and Barbuda, Benin, Plurinational State of Bolivia, Bosnia and Herzegovina, China, Côte d’Ivoire, Djibouti, El Salvador, Indonesia, Madagascar, Namibia, Senegal, Sudan, Syrian Arab Republic and United Republic of Tanzania, General Survey concerning social security instruments (2011), table 6, pp. 124–128.

²¹ For further information see, Report for the recurrent discussion on social security, Chapters 3.2–3.6; *Extension guide*, Chapter 3.3; *World Social Security Report 2010/11*, Chapters 3–7.

²² National Rural Employment Guarantee Act, No. 42 of 2005, New Delhi, Sep. 7, 2005, *The Gazette of India*.

or one-off employment opportunities in public work schemes, but the Indian scheme and the employment guarantee component of the Productive Safety Nets Programme (PSNP) in Ethiopia and the small-scale Zibambe Programme in South Africa offer rights-based entitlements for the working-age population.

56. Regarding family or child benefits, many countries ²³ reported in the General Survey concerning social security instruments (2011) that they provide benefits to assist families in meeting the cost of raising and educating children and preventing child labour. While periodic cash payments are at the core of most family benefits schemes, they are often complemented through various benefits in kind or in cash, including social services, free or subsidized day-care services or benefits for vulnerable groups such as disabled children, orphans or families affected by HIV and AIDS. Countries further emphasized the importance of legislation on compulsory education and the provision of free primary education and further support measures such as free textbooks, school supplies, uniforms or transport to and from school.

57. In some middle- and high-income countries, family benefits are universal and paid for each child and sometimes supplemented by additional entitlements for poor families. Other countries ²⁴ target family benefits to poor households. Such benefits are often conditional upon compliance with certain predefined behaviour such as school attendance or uptake of certain health services, etc.

58. At least 82 countries provide some form of social pension for the elderly of a certain age, mostly means-tested and at very modest benefit levels. ²⁵ These are often supplemented with additional services or benefits depending on needs such as care arrangements, subsidies for housing, heating or transport. In countries with mature social security systems, social pensions are usually schemes of last resort for those with insufficient or incomplete contribution records to contributory pension schemes. In countries with large informal economies and persistent challenges regarding old-age poverty, social pensions have become important social inclusion mechanisms with positive impacts for the entire household.

Health ²⁶

59. Eighteen member States reported that they are largely complying with the provisions of Recommendation No. 69 on medical care, but many more States are actually complying with, or working towards, achieving the objectives of the Recommendation. ²⁷

²³ Including all European countries as well as Algeria, Angola, Argentina, Azerbaijan, Bangladesh, Chile, Djibouti, Republic of Fiji, Gabon, Mauritius, Mexico, Morocco, New Zealand, General Survey concerning social security instruments (2011), paras 192–204 and country information.

²⁴ For example, Belarus, Bosnia and Herzegovina, Brazil, Ecuador, El Salvador, Guatemala, Mozambique, Senegal, South Africa, Suriname, Uganda, United States, Uruguay, Bolivarian Republic of Venezuela and Zimbabwe; *ibid.*, paras 199–204 and country information.

²⁵ HelpAge International Pension Watch Database, www.pension-watch.net/download/4e11c05090f58 [accessed 20 June 2011].

²⁶ For more information on Social Health Protection Coverage see Report for the recurrent discussion on social security, Chapter 3.1; *World Social Security Report 2010/11*, Chapter 2; *Extension guide*, Chapter 3.2; and ILO: *Social health protection: An ILO strategy towards universal access to health care*, Social Security Policy Briefings, Paper 1 (Geneva, 2008).

²⁷ These include: Algeria, Austria, Bosnia and Herzegovina, Costa Rica, Czech Republic, El Salvador, France, Honduras, Indonesia, Israel, Republic of Korea, Kuwait, Malaysia, Montenegro, New Zealand, Peru, Syrian Arab

60. In a recent ILO review of social health protection coverage, around 50 countries²⁸ were found to have achieved “universal coverage” in social health protection – defined as being an affiliated member of a scheme or being entitled to free medical care. This figure of population coverage does not necessarily mean all people enjoy effective access to a comprehensive range of services. Protection may be inadequate as many schemes require co-payments, especially for more expensive services, or are facing staff and technology shortages, as well as deficiencies in the geographical density of services. Several countries like China and Viet Nam have set clear targets and are undertaking serious efforts to reach comprehensive protection over the next five to ten years.

2.3. The level of benefits provided²⁹

2.3.1. International legal and conceptual framework

61. The benefits that should be provided under national social protection floors, as stated in the conclusions concerning social security (2011), are “basic social security guarantees that ensure that over the life cycle all in need can afford and have access to essential health care and have income security at least at a nationally defined minimum level. social protection floor policies should aim at facilitating effective access to essential goods and services”³⁰ As further developed in the appendix to the conclusions, these guarantees set nationally defined “minimum levels of protection that all members of a society should be entitled to in case of need”.³¹ The principle of adequacy of benefits was also identified in the conclusions concerning social security (2011) as one of the principles which should guide national policy and strategic decisions on the extension of social security.³²

62. The conclusions concerning social security (2011) pragmatically accepted that the concrete definition of adequacy should be formulated at national level, as not all member States have developed definitions of poverty lines, minimum wages or average or median wage levels or other benchmarks.

63. Providing adequate social security benefits is also considered by the CESC as one of the essential factors that should apply in all circumstances for guaranteeing the realization of the right to social security and the right to an adequate standard of living³³

Republic and Bolivarian Republic of Venezuela, General Survey concerning social security instruments (2011), para. 52.

²⁸ These include: Antigua and Barbuda, Argentina, Armenia, Aruba, Australia, Austria, Bahamas, Barbados, Belgium, Canada, Cuba, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Republic of Korea, Luxembourg, Mauritius, Netherlands, New Zealand, Norway, Poland, Portugal, Rwanda, Russian Federation, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Taiwan (China), Thailand, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Uzbekistan, *World Social Security Report 2012/13*, forthcoming.

²⁹ For further information see report for the recurrent discussion on social security, Chapter 2.2; *Extension guide*, Chapter 2.

³⁰ Conclusions concerning social security (2011), para. 9.

³¹ Appendix to the conclusions concerning social security (2011), para. A6.

³² Conclusions concerning social security (2011), para. 9.

³³ Article 11(1) of the ICESCR stipulates that: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right”

under the ICESCR. More specifically, the CESCR in its General Comment No. 19 states that the application of this principle requires that “Benefits, whether in cash or in kind, must be adequate in amount and duration in order that everyone may realize his or her rights to ... an adequate standard of living ...” as contained in article 11 of the ICESCR.³⁴

64. With regard to the right to social security (article 9 of the ICESCR), in conjunction with the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12 of the ICESCR), the CESCR considers that the core obligation to ensure the minimum essential levels of each of the rights, means the obligation to ensure access to a social security scheme that provides minimum essential levels of benefits to all individuals and families, that will enable them to acquire at least essential primary health care.³⁵ Although this level cannot be determined in the abstract as it is a national task, the following core obligations are set out to guide the priority-setting process:³⁶

- (c) to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;
- (d) to provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
- (e) to ensure equitable distribution of all health facilities, goods and services;
- (f) to adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.³⁷

65. Furthermore, the CESCR states that among others, the following are obligations of comparable priority under article 12:

- (a) to ensure reproductive, maternal (prenatal as well as post-natal) and child health care;
- (b) to provide immunization against the major infectious diseases occurring in the community;
- (c) to take measures to prevent, treat and control epidemic and endemic diseases ...³⁸

66. Within the ILO standards framework, Recommendation No. 67 contains, in its Annex some guiding principles for the determination of the rates and level of “social assistance” benefits or “maintenance allowances” which aim to ensure their adequacy.

³⁴ CESCR General Comment, No. 19, para. 22.

³⁵ CESCR General Comment No. 19, para. 59; and CESCR: General Comment No. 14: *The Right to the Highest Attainable Standard of Health* (article 12), adopted at the 22nd Session of the CESCR, on 11 August 2000, document E/C.12/2000/4 (UN) (herewith referred to as: CESCR General Comment No. 14), paras 43–44.

³⁶ In the CESCR General Comment No. 14, para. 43, the Committee indicates that the Alma-Ata Declaration provides compelling guidance on the core obligations arising from article 12, in conjunction with more contemporary instruments, such as the Programme of Action of the International Conference on Population and Development. It should be noted that other core obligations are identified by the Committee under both articles 9 and 12. However, the list here is limited to those which are relevant for guaranteeing “access to essential health care services for all residents” as part of the social transfer component of the social protection floor.

³⁷ *ibid.*, para. 43.

³⁸ *ibid.*, para. 44.

With regard to the level of benefits provided under such schemes, it recommends that: “Maintenance allowances should be sufficient for full, long-term maintenance; they should vary with the current cost of living, and may vary as between urban and rural areas.”³⁹ As to the rates of benefits, “Maintenance allowances should be paid at the full rate to persons whose other income does not exceed a prescribed level and at reduced rates in other cases.”⁴⁰

67. Recommendation No. 69, concerning medical care benefits, lays down that medical care should be complete (preventive and curative care) and meet the need of the individual for care without time limit and provide the highest possible standard of care and of professional skill and knowledge with a view to maintaining, restoring and improving the health of the persons protected, subject only to such reasonable limitations as may be imposed by the technical organization of the service.⁴¹

68. Convention No. 102 also sets a minimum level of benefits to be provided by means-tested social assistance schemes. Under such schemes, such benefits must not be lower than prescribed portions of the typical prevailing wage levels paid for simple unqualified work. In addition, the total of the benefits paid and other means of the beneficiary “should be sufficient to maintain the family of the beneficiary in health and decency”.⁴²

2.3.2. National law and practice

69. Measures introduced by countries to ensure basic income security and essential health care include benefits in cash and in kind. Benefits provided in kind often consist of food transfers or waivers or vouchers to cover the cost of health and education services or a combination of cash and vouchers.⁴³

70. For benefits provided in cash, a variety of reference variables may be used to determine the level of benefits including absolute or relative poverty lines, level of earnings or overall income levels (individual or average). The practice of how benefit levels are set, what levels are considered adequate and whether these are the same nationwide or vary according to household characteristics, geographical areas⁴⁴ or other factors, differs across regions and countries. Table 2 below shows the level of benefits or the reference for setting benefit levels for a selected range of basic income guarantee schemes.

³⁹ Recommendation No. 67, Annex, para. 29(2).

⁴⁰ *ibid.*, Annex, para. 29(3).

⁴¹ Recommendation No. 69.

⁴² Convention No. 102, Article 67(c).

⁴³ This is for example the case of the Bono Juancito Pinto scheme in the Plurinational State of Bolivia, Familias en Acción in Colombia, the Red Solidaria in El Salvador, the Programa de Asignación Familiar in Honduras, Programme of Advancement through Health and Education in Jamaica (see Barrientos et al., *Social Assistance in Developing Countries Database*, University of Manchester, Chronic Poverty Research Centre, Manchester, 2010).

⁴⁴ China reported that although there is no general poverty line established in the country, there are different poverty standards established at local levels.

Table 2. Types and benefit levels of cash transfer programmes in selected countries, absolute levels and relative to minimum wages

Programme	Type	Level of benefit provided	Level of benefit in per cent of minimum wage
Argentina, Asignación Universal por Hijo	Universal child allowance for each child up to a maximum of 5 children	Monthly benefit level set at ARS\$220 per child or ARS\$880 for disabled children ¹ (not automatically indexed)	Minimum wage: ARS\$1,740 (Sep. 2010). ² Benefit in per cent of minimum wage: 12.5% per child and 51% per disabled child
Plurinational State of Bolivia, Renta Dignidad	Universal old-age pension	Income transfer equivalent to BOP200 per month. Can be collected monthly, quarterly, biannually or annually depending on beneficiaries' needs ³	Minimum wage: BOP679.5 (2010). ⁴ Benefit in per cent of minimum wage: 29.5%
Brazil, <i>Bolsa Família</i>	Means-tested conditional cash transfer	Households in extreme poverty (> R\$140/month/person): R\$32 per child under age 16 (up to 3 children, as of Sep. 2011: 5 children) plus R\$38 per child aged 16–17 (max. 2 children per family) plus additional R\$70 per month	Minimum wage: BRL545 (2011). ⁵ Benefit in per cent of minimum wage: 9% per household in extreme poverty plus 3% per child
Brazil, Rural Social Insurance Programme	Social pension for old age, survivors, disability, sickness and maternity	The non-contributory benefits have a minimum value of one official minimum wage ⁶	Minimum wage: BRL545 (2011) Benefit in per cent of minimum wage: 100%
India, Mahatma Gandhi National Rural Employment Guarantee Schemes	Rights-based employment guarantee for one member per rural households (including disabled, no age limit)	Equal wages for men and women at levels of Minimum Wages Act 1948 (INR100 per day) ⁷	Minimum wage: currently between 80 and 203 rupees/day ⁸
Mauritius	Minimum basic pension	MUR2,802 per month ⁹	Half median monthly household income 2006–07: MUR7,320. ¹⁰ Benefit in per cent of half median monthly household income: 38%
Mexico, Oportunidades	Conditional cash transfer for children going to school, elderly and cash benefit for electricity, housing and food	Monthly benefit in cash and in kind. Cash amounts vary from MXN60 to 925 with a ceiling of MXN2,345 pesos per household depending on age, sex and other eligibility criteria. ¹¹ Benefit levels correspond to those of the second semester of 2010	Minimum wage: from MXN 54.47 to 57.46 per day (from MXN1,634.1 to 1,723.8 per month in 2010). ¹² Benefit in per cent of minimum wage: MXN1,634.1, it varies from 3.7% to 56.6% MXN1,723.8, it varies from 3.5% to 53.7%
South Africa, Child Support Grant	Means-tested cash transfer	Initially based on the food costs of a child – subsequently increased. The transfer as of Apr. 2011 is ZAR260 ¹³ per month for children under the age of 18 for households with annual income of less than ZAR31,200 per month for a single parent or ZAR62,400 for a married couple	Minimum wage for Security Guard category in 2010 (employees in the wholesale and retail sector): ZAR1,999.62 (area A) and ZAR1,902.02. ¹⁴ Benefit in per cent of minimum wage: 13% (area A) and 13.7% (area B)

Programme	Type	Level of benefit provided	Level of benefit in per cent of minimum wage
South Africa	Means-tested old-age grant and disability grant	ZAR1,010 per month (US\$132) ¹⁵	Benefit in per cent of minimum wage: 50.5% (area A) and 53.1% (area B)

¹ Administración Nacional de la Seguridad Social ANSES – Argentina, www.anses.gob.ar/AAFF_HIJO2/index.php?p=1. ² Ministerio de Trabajo, Empleo y Seguridad Social – Argentina, www.trabajo.gov.ar/left/estadisticas/bel/index.asp. ³ Barrientos, op. cit., p. 15. ⁴ Ministerio de Economía y Finanzas – Plurinational State of Bolivia, www.economiayfinanzas.gob.bo/index.php?opcion=com_contenido&ver=contenido&id=1215&seccion=306&categoria=446. ⁵ Ministério do Trabalho e Emprego – Brazil, www.mte.gov.br/sal_min/default.asp. ⁶ ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 81. ⁷ Minimum Wages Act 1948, <http://labour.nic.in/annrep/files2k1/lab5.pdf>. ⁸ Ministry of Labour – India, <http://labourbureau.nic.in/wagetab.htm>. ⁹ Barrientos, op. cit., p. 103. ¹⁰ Mauritius does not have a national poverty line or a national minimum wage. However, the half median monthly household can be used as a poverty-related indicator, www.gov.mu/portal/site/cso/menuitem.dee225f644ffe2aa338852f8a0208a0c/?content_id=6dda3f48c654c010VgnVCM1000000a04a8c0RCRD. ¹¹ Reglas de operación Oportunidades and SEDESOL Fact Sheet Booklet Mexico 2009. ¹² Servicio de Administración Tributaria – México, www.sat.gob.mx/sitio_internet/asistencia_contribuyente/informacion_frecuente/salarios_minimos/default.asp. ¹³ www.capegateway.gov.za/eng/directories/services/11586/47468. ¹⁴ Department of Labour – South Africa, www.labour.gov.za/downloads/legislation/sectoral-determinations/basic-conditions-of-employment/wholesaleretail2009-2010.doc. ¹⁵ Barrientos, op. cit., pp. 113–114.

71. In order to ensure adequacy, measures have to be taken to ascertain or to maintain the purchasing power of benefits. In the General Survey concerning social security instruments (2011), the CEACR observes differences between high-income countries and middle- and low-income countries with regard to the value and adequacy of the benefits provided by their respective social security systems. More specifically, the CEACR notes that: “While in the former group of countries benefits as a rule are superior even to the advanced standards established by subsequent social security Conventions, the middle- and low-income countries often have a level of benefits that does not attain the minimum benchmarks ... to permit a beneficiary to maintain himself and his family ‘in health and decency’.”⁴⁵ The low level of benefits also was the key issue among the problems raised by workers’ organizations in their replies to the General Survey concerning social security instruments (2011).⁴⁶ Replies stated that the level of benefits – including from contributory schemes – in many instances do not guarantee an income above the poverty line.

72. The levels of benefits are often a matter of national debate. South Africa intended to set the level of the benefit for child support according to an objective measure of need: the food costs of a child (calculated at US\$10.35 in 1998).⁴⁷ Advocacy groups argued that the amount was set far too low given the cost of living. Political engagement with civil society groups resulted in an increase in the amount of the grant to US\$13.80. In Germany, the constitutional court ruled that the method used to set the level of benefit for the social assistance scheme “Arbeitslosengeld 2” is not sufficiently justified and obliged the Government to provide more detail on the rationale and calculations used to determine the benefit amount.

73. In addition to different methods of setting benefit levels, States have also adopted different mechanisms to maintain the purchasing power of benefits. This can take place automatically, periodically or ad hoc. Benefits can be indexed to the cost of living, average, median or minimum wages, economic growth, ad hoc or a mix of these

⁴⁵ General Survey concerning social security instruments (2011), para. 460.

⁴⁶ This was pointed out for example, in replies from workers’ organizations in Argentina, Canada, Colombia, Dominican Republic, Montenegro, Peru, Sri Lanka, Turkey, United States and Uruguay, General Survey concerning social security instruments (2011), para. 539.

⁴⁷ ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 372.

methods.⁴⁸ Some countries reported that they do not adjust social security benefits.⁴⁹ As the General Survey concerning social security instruments (2011) points out, adjusting benefits to the cost of living alone protects recipients from sliding into absolute poverty (provided that initial benefit levels were set at adequate levels). However, it does not prevent them from experiencing relative poverty as benefits will lag behind the growth of the average income of the working population.

74. Regarding health services, there is discussion on the question of what an “essential” level of health care consists of. Genuine social protection from hardship in cases of ill health would require a fairly comprehensive package. Many States define a comprehensive package but are confronted with great difficulties to ensure the funding and availability of a well-trained health workforce and the necessary equipment and infrastructure to provide adequate care to the whole population, especially outside urban centres.

2.4. The legal nature of entitlements⁵⁰

2.4.1. International legal and conceptual framework

75. The provision of rights-based benefits was recognized by the ILC in its conclusions concerning social security (2011) as one of the core principles which should guide national strategies for the extension of social security.⁵¹ ILO Recommendations and Conventions provide for the implementation of coverage and benefit provisions by “virtue of national laws or regulations” (e.g. Convention No. 102, Article 1).

76. Thus, rights-based social security is here understood as the provision of benefits as of right, i.e. it requires the establishment of national social protection systems grounded in sound legal and institutional frameworks adhering to internationally recognized principles of good governance and state responsibility and in line with international human rights and their interpretation by competent bodies. A sound legal framework, following a rights-based approach, is one where social security rights are clearly stipulated and their beneficiaries identified, without discrimination, and which sets out benefits levels and entitlements conditions that are reasonable, proportionate and transparent. The withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law. Under such a framework, obligations carry legal weight and therefore rights are enforceable through statutory complaint and appeal procedures. In

⁴⁸ Adjustment of benefits to inflation is practiced for example in Albania, Argentina, Australia, Azerbaijan, Belgium, Brazil (statutory schemes), Canada, Croatia, Estonia, France, India, Latvia, Malaysia, New Zealand, Poland, Romania, Turkey and others. Adjustment to the growth in average wage is undertaken for example in Australia, Barbados, Brazil (*Bolsa Familia*), Côte d’Ivoire, Croatia, Finland, Germany, Latvia, Mongolia, Montenegro, New Zealand, Poland, Romania and Turkey. New Zealand and Finland use a mixed method of adjusting benefits in line with consumer prices and wages. Countries lacking legislation for obligatory regular adjustments of benefits but undertaking ad hoc adjustments include Algeria, Antigua and Barbuda, China, Ethiopia, Ghana, Republic of Korea, Mauritius, Namibia, Philippines, Saudi Arabia, Syrian Arab Republic, Zimbabwe among others. Germany, Japan, Portugal and Sweden report adjusting benefits to the rate of the country’s economic growth and other macroeconomic indicators, General Survey concerning social security instruments (2011), paras 477–85.

⁴⁹ Belize, Cameroon, Thailand and Uganda, *ibid.*, para. 482.

⁵⁰ For further information, see also report for the recurrent discussion on social security, Chapter 1; General Survey concerning social security instruments (2011), Part II; *Extension guide*, Chapter 1.2.

⁵¹ Conclusions concerning social security (2011), para. 12.

this regard, it should be noted that the right of beneficiaries to lodge a complaint and the right of appeal in social security matters is explicitly laid down in ILO social security standards and notably Recommendations Nos 67 and 69 and Convention No. 102.⁵²

77. Realizing people's right to social protection also requires that all people have full access to the protection to which they are entitled under the law. This can be done, among others, by setting up adequate mechanisms for the effective delivery of benefits by ensuring that people are informed of their rights, entitlements and recourses, and by ensuring their physical and financial access to justice. Finally, rights-based social security requires equality of treatment and non-discrimination in the statutory formulation of social security rights and in their implementation in practice, so as to avoid, among others, any adverse effect on the levels of benefits and the form in which they are provided. This would require that schemes aiming to cover specific groups who share distinctive characteristics should, in their design and provisions, take into account and reflect their special needs.⁵³

78. With regard to health care more specifically, a rights-based approach would require that States ensure the right of access to social security systems/schemes and health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups.⁵⁴ In this regard, it should be noted that the HIV and AIDS Recommendation, 2010 (No. 200) concerning, provides that: "There should be no discrimination against workers or their dependants based on real or perceived HIV status in access to social security systems and occupational insurance schemes, or in relation to benefits under such schemes, including for health care and disability, and death and survivors benefits."⁵⁵

2.4.2. National law and practice

79. The objective to "provide a basic income to all in need of such protection and comprehensive medical care" Declaration of Philadelphia (1944) is recognized in the form of a legal entitlement to social security to various extents in the Constitution of many States (e.g. Bangladesh, Plurinational State of Bolivia, Brazil, Ecuador, Greece, India, Italy, Japan, Kenya, Namibia, Pakistan, Portugal, South Africa, Spain, Sri Lanka, Switzerland and Bolivarian Republic of Venezuela). National legislation aims to give effect to these constitutional provisions. Examples of national legislation creating legal social security entitlements include most European minimum income guarantee schemes, the Indian National Rural Employment Guarantee Act No. 42 of 2005, the Thailand National Health Security Act, B.E. 2545 (2002) for the non-contributory universal health coverage scheme, the Ghana National Health Insurance Act No. 650 of 2003 and accompanying National Health Insurance Regulations, LI 1809 of 2004, the Namibia universal pension scheme through the National Pensions Act 1992 (Act 10), the South African Child Grant as included in the Children's Act No. 38 of 2005, the Chile Solidario family benefit Law No. 19949 of 2004. Constitutional provisions take many different forms, ranging from binding or promotional provisions, general statements or

⁵² See Recommendation No. 67, Annex, Articles 27(8), (9) and (10); Recommendation No. 69, Paragraphs 63 and 112; and Convention No. 102, Article 70.

⁵³ CESCR General Comment No. 19; and UN: *Report of the independent UN expert on the question of human rights and extreme poverty regarding cash transfer*, UN General Assembly document A/HRC/11/9 (27 March 2009).

⁵⁴ *ibid.*, para. 13.

⁵⁵ HIV and AIDS Recommendation, 2010 (No. 200), para. 20.

specific obligations, covering different branches of social security and sometimes including also provisions attributing competence to certain authorities or determining how social security should be implemented.⁵⁶ In practice, it has proven very difficult for States to effectively provide protection to all in need in terms of identifying who is in need of protection, as well as in terms of ensuring sufficient financing or developing effective delivery mechanisms to reach those in need. To give effect to the right to social security enshrined in the Constitution, detailed national legislation is required that determines the design, administration, management, delivery, financing and monitoring arrangements of the entitlements provided by the social security system. Ultimately, the government then needs to commit the necessary resources for the implementation of the social security legislation to give effect to the rights-based benefits. However, persistent high levels of poverty, hunger, malnutrition, maternal and child mortality, forced labour, child labour and social exclusion show that many of the social security entitlements are not inclusive in coverage or not implemented properly. On the other hand, in many countries, governments implement programmes on a discretionary basis, or provide ad hoc benefits not anchored in national legislation. Also, non-governmental actors who do not act under contract with or on behalf of the Government or a social security institution, sometimes provide certain benefits or services. While these measures may have important poverty alleviation effects for the population benefiting from them, they do not meet the criteria of providing a minimum level of social protection in the sense of providing transparent, predictable, regular and certain entitlements with clear eligibility criteria and guaranteed levels of benefits. For example, some countries have established systems that have budgetary ceilings, providing benefits up to a certain level of public expenditure rather than a rights-based entitlement that is provided following defined eligibility criteria based on the need for protection among the population. Budgetary ceilings clearly do not meet the requirements of providing protection to all in need of social protection but provide for a discretionary and often accidental limitation of the number of beneficiaries generally on a first come, first served basis. However, a budgetary ceiling that selects beneficiaries by their degree of need (for example, selecting the poorest x per cent of the population, as is the case for the Livelihood Empowerment Against Poverty (LEAP) programme in Ghana) and where that limitation is stipulated by law, can be considered akin to a rights-based approach as long as the levels of income of the non-selected part of the population permits a life in “health and decency”. Likewise, a country can be considered to follow a rights-based approach to social security if it provides, as legal entitlements, the core guarantees as spelled out in the social protection floor concept.

80. The vast majority of countries reported that they guarantee the right to complain and to appeal, including to a body independent of that which initially awards and pays the benefits. The legal procedures and institutions for complaint and appeal differ widely between countries but can be grouped into four categories: (1) internal administrative procedures; (2) special judicial procedures; (3) judicial procedures before general courts; and (4) mixed procedures.⁵⁷ Several countries have established tripartite social security dispute settlement mechanisms.

⁵⁶ The details of these different provisions are discussed in the General Survey concerning social security instruments (2011), paras 234–293.

⁵⁷ The General Survey concerning social security instruments (2011) discusses different national complaint and appeal mechanisms in detail in paras 403–438.

81. A further key issue highlighted by most countries⁵⁸ in their General survey replies was the question of equality and non-discrimination as a general principle underpinning their social security system and ensured in their national legislation. Some even mentioned affirmative action for disadvantaged groups such as special programmes for young persons seeking employment. At the same time, some States⁵⁹ reported on gaps in law and practice as important parts of the population remain excluded from social security coverage, particularly as differences are persistent, especially between women and men as well as between national and foreign workers. Currently, there is no ILO standard that deals especially with equal treatment for men and women in matters of social security. Several States⁶⁰ have made progress in closing the gender gap by allowing or requiring the affiliation of part-time, domestic or informal economy workers, most of whom are women.

2.5. Delivery mechanisms and organization⁶¹

2.5.1. International legal and conceptual framework

82. The need for flexibility in the design and implementation of national social protection floors, which should be based on national circumstances and priorities defined with the participation of social partners is clearly stated by the ILC in the conclusions concerning social security (2011). The ILC further concluded that: “While expected outcomes of these guarantees are of a universal nature, member States find different ways of implementing social protection floor policies, which may include universal benefit schemes, social insurance, public employment programmes and employment support schemes, and social assistance schemes that provide benefits only to people with low income, or appropriate combinations of such measures. To be effective, these policies require an appropriate mix of preventive measures, benefits and social services.”⁶²

83. The principle of flexibility in the means of providing social security at national level is also contained in Convention No. 102 and other social security standards, including Recommendations Nos 67 and 69. As mentioned previously in this report, Convention No. 102 allows that social security be provided through a combination of contributory and non-contributory benefits, general and occupational schemes, compulsory and voluntary insurance, through different methods for the administration of benefits, and public and private institutions, all intended to secure an overall level of

⁵⁸ Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belize, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Central African Republic, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Djibouti, Ecuador, Ethiopia, Republic of Fiji, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, India, Italy, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Republic of Moldova, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, New Zealand, Nicaragua, Norway, Oman, Peru, Philippines, Poland, Portugal, Qatar, Romania, Saint Lucia, Senegal, Serbia, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, United Kingdom, United States, Uruguay, Bolivarian Republic of Venezuela and Zimbabwe, General Survey concerning social security instruments (2011), para. 208.

⁵⁹ For example El Salvador and Ghana, *ibid.*, para. 209.

⁶⁰ Algeria, Argentina, El Salvador, Republic of Fiji, Honduras and India, *ibid.*, paras 219–223 and paras 321–322.

⁶¹ For further information see also *Extension guide* Chapter 3, Report for the recurrent discussion on social security, Chapter 4.3; ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011).

⁶² Conclusions concerning social security (2011), para. 10.

protection which best responds to its needs. As stated by the CEACR, “The method selected must reflect the social and cultural values, history, institutions and level of economic development.”⁶³

2.5.2. National law and practice

84. The law and practice of providing basic social security guarantees for income security and access to health services of the population display a large diversity between and within countries of approaches and strategies in the design and delivery of benefits. Benefits are delivered in cash or in kind, at a flat rate or at different benefit levels, monthly throughout the year or seasonal, with or without limitation of time, universally or targeted to specific income groups, age groups, geographical areas, sectors, or depending on other socio-economic characteristics, by a number of different public or private sector (but publicly mandated and supervised) institutions, and are financed from a variety of different sources. Virtually all national social security systems combine more than one form of benefit delivery, organization and financing. There is no single best solution or one-size-fits-all prescription for how to best provide social protection floor guarantees to all. The choice of policies for countries aiming to establish a national social protection floor will often depend on already existing social assistance or social insurance schemes, as measures should be designed to build on and complement structures that are already in place. Extending the mandate of established institutions to implement social protection floor policies may create economies of scale and be a more cost efficient arrangement than setting up new – potentially competing – institutions.

85. To ensure access to essential health care, it is necessary to ensure both financial protection and an adequate supply of health services both in terms of quality and in terms of geographical access. The delivery of health services is more complex than delivering benefits to ensure income security. Health services require highly skilled personnel and a considerable amount of equipment and infrastructure which is more demanding than the delivery of a cash payment. Many countries face great staff shortages in the health workforce and severe difficulties in setting up and maintaining an adequate health infrastructure to provide guaranteed access to services for the whole population. In some countries, e.g. Ghana and some Central and Eastern European countries, the migration of skilled health workers aggravates staff shortages and hence impedes universal access to adequate health care.

86. Even within countries, no one-size-fits-all solution can be applied to reach different population groups, so that many States develop different delivery mechanisms and benefit schemes for urban or rural populations, different geographical areas, formal or informal economy workers, and women and men. Whether a country opts for a uniform social protection architecture or a plurality of financing and delivery mechanisms will depend on country context and circumstances, and is of secondary importance as long as the outcomes of a basic level of income security and access to health services protection is ensured for all. A pluralistic system may sometimes be better able to reach various population groups and fulfil their needs. On the other hand, there is a danger of fragmentation and increased need for coordination in the case of more pluralistic social protection systems, and larger schemes may benefit from larger risk pools and economies of scale for administrative costs.

87. The physical delivery of benefits also varies widely. In countries where the money cannot simply be deposited in the claimant’s bank account, delivery mechanisms to pay

⁶³ General Survey concerning social security instruments (2011), para. 58.

out cash benefits vary widely across countries and schemes. Commonly used payment systems include paying through post offices or banks, and the installation of special pay-points, for example in schools; sometimes national social security institution branch offices, lottery agents or local shops are used. Some countries use advanced technologies of magnetic cards or mobile phones for the transfer of the money.

88. An example of a flexible delivery mechanism: In the Plurinational State of Bolivia, “Renta Dignidad” payments, made in real time on a daily basis, ensure that the payments are available in over 1,100 payment centres at the national level. Payment centres are available in more than 900 financial institution platforms, operating online transactions in real time. Regarding the logistics of benefit payments, it is important to emphasize the operational innovation of employing the armed forces to pay out the Renta Dignidad. There are more than 200 payment centres between the military installations and the mobile military units. The mobile military units are equipped with mobile satellite equipment interfaced to the main database of beneficiaries, enabling people to collect payments online from any location in the country. The system has also achieved greater geographical coverage in urban areas and, more significantly, in rural areas.

2.6. Coherence with other policy objectives ⁶⁴

2.6.1. International legal and conceptual framework

89. The importance of ensuring policy coherence and the responsibility of the State in this regard were recognized by the ILC as key elements in its conclusions concerning the recurrent discussion on social protection (social security). Notably, it recommended that: “Governments of member States should consider and/or undertake ... fostering coherence of social security policies with employment, macroeconomic, and other social policies within a decent work framework, particularly with respect to promoting the progressive formalization of employment and providing support for productive employment.” ⁶⁵

90. Within the framework of ILO social security standards, the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168), spells out the need for close coordination and harmonization of employment policies with unemployment benefits. The ILO’s Decent Work Agenda and the ILO Declaration on Social Justice and a Fair Globalization (2008) emphasize the importance of integrating economic and social policies. The CEACR in its General Survey concerning social security instruments (2011) highlighted the concern about the detrimental consequences of a one-sided focus on economic policies during the 1990s. Increased competition, privatization and deregulation of labour markets threaten social cohesion, increase precariousness, reduce social protection and erode fundamental principles and rights at work, but do not produce the desired effects in terms of increasing employment or economic growth. Only a coherent and balanced consideration of the economic and social consequences of economic, social, fiscal, monetary, labour market and development policies will ensure a socially just and sustainable path to development. ⁶⁶

⁶⁴ For further information, see also report for the recurrent discussion on social security, Chapters 4.1 and 5.2.1; *Extension guide*, section 2.5.2; General Survey concerning social security instruments (2011), Part IV, Chapter 2.

⁶⁵ Conclusions concerning social security (2011), para. 33(b).

⁶⁶ General Survey concerning social security instruments (2011), Part I, Chapter 2(A).

91. Another reference to policy coherence can be found notably in Recommendation No. 200, which provides that national policies and programmes on HIV and AIDS should be coordinated with national social security policies and health policies and programmes.⁶⁷

2.6.2. National law and practice

92. Positive synergies between social security schemes and national economic policies occur when benefits are designed to promote the re-insertion of people into the labour market after spells of unemployment, sickness, maternity or disability, or when they facilitate the mobility of labour between different jobs when the economy is restructuring. Positive side effects also occur when social security reserves are invested in productive public and private investments (as was the case, for example in Chile). However, in many countries, improved coordination or integration of social, economic, labour, fiscal or monetary policies poses challenges in terms of establishing efficient mechanisms for cross-sectoral and inter-ministerial collaboration.⁶⁸ Some countries⁶⁹ report positive examples of improving policy coherence through inter-ministerial working groups, or other coordination structures. For example, in Uruguay “the Government has established a Social Cabinet which regroups the President of the Republic, Ministers of Social Development, Finance, Education and Culture, Labour and Social Security, Health, Tourism and Sport, Housing, Territorial Planning and Environment, Office of Planning and Budget and the President of the Congress of Mayors”.⁷⁰

Increasing labour market participation of the economically active population

93. Social expenditure is financed by taxes and contributions, which inevitably influences labour costs and the tax levels in society. A narrow tax base focusing only on employers and employee contributions is likely to be insufficient to fund the extension of social protection to all and might result in wrong incentives. The taxation of all forms of income and wealth can avoid undue tax burdens on formal employment. Wrong incentives can jeopardize the macroeconomic benefits of investing in social security. This can be the case if benefit levels or design cause an undesired level of inactivity or withdrawal from the labour market, resulting in unnecessarily high dependency rates, reduced output and, as a result, economic inefficiency.

94. Effective policy responses to such challenges may not only require adjustments in the social security system, but also need to address the availability of quality employment opportunities, the adequate coordination of labour market policies, especially active labour market policy, and wage policies with the social security policy. Measures to increase employability of actual and potential social security benefit recipients are necessary but cannot be effective if decent employment opportunities in terms of remuneration and working conditions are not available. This includes

⁶⁷ Recommendation concerning HIV and AIDS and the World of Work, 2010 (No. 200), para. 37(h).

⁶⁸ A lack of measures to coordinate social security and employment policies was reported for example by Antigua and Barbuda, Belize, Benin, Plurinational State of Bolivia, Gabon, Mozambique, Nicaragua, Saint Lucia, Senegal and Suriname, General Survey concerning social security instruments (2011), para. 508.

⁶⁹ Countries reporting administrative links between employment and social protection include Colombia, Ethiopia, Malaysia, Mali and Mauritius, *ibid.*, para. 509.

⁷⁰ *ibid.*, para. 507.

appropriate labour market policies and lifelong learning strategies especially for the youth to enter and for the elderly to stay in employment, especially if their previous activities had been dependent on physical strength.

95. A recent trend of closer integration of social and employment policies has focused in particular on linking benefits for the unemployed with activation policies and employment services⁷¹ like vocational training and guidance or placement. For example, in Argentina, the Seguro de Capacitación y Empleo (SCyE) links a cash transfer for the unemployed with a professional training programme. Strong case management and early interventions can minimize the need for unemployment assistance and prevent workers from becoming long-term unemployed. Social security benefits and employment policies should be designed to encourage workers to seek productive employment and avoid disincentives for employers to offer and workers to seek employment. The Republic of Korea has established an innovative set of benefits to set the right incentives, including early re-employment allowances, vocational skills development allowances, wide-area jobseeking and moving allowances.

96. Extending working lives and increasing the employment rates of people of active age is high on the policy agendas of many countries. The key challenge for managing the demographic change is the maintenance of high productivity growth that requires continuous investment in infrastructure, education, lifelong learning as well as working conditions and health and safety provisions that avoid premature ageing. Early retirement poses a serious problem in some European countries. In the Netherlands, for example, the employment-to-population ratio for the age group 55–64 was as low as 29.7 per cent in 1990. The pension system did not reduce benefit levels in the case of early retirement. Pension reform in 1997 succeeded in providing incentives to postpone de facto retirement by putting the actuarially calculated “price” on early retirement and reducing entitlements in cases of early retirement. The European Union has set itself two key objectives with regard to the employment of older people. In 2001, the Stockholm European Council set a target that, by 2010, at least half of the EU population aged 55–64 should be in employment. This was then followed by the conclusion of the 2002 Barcelona European Council that: “A progressive increase of about 5 years in the effective average age at which people stop working in the European Union should be sought by 2010”,⁷² the aim being to step up efforts to allow older workers to remain longer in the labour market. A number of OECD countries have taken decisive steps to increase pension ages during the last two decades, by either raising the normal retirement ages, or introducing incentives to retire later by linking pension levels to retirement ages, to life expectancy at the age of retirement, or both. In 13 out of 29 OECD countries retirement age is being adjusted upwards, in some cases beyond the age of 65 (Denmark, Germany, Netherlands, United Kingdom and United States).

97. Another focus is on increasing the integration into the labour market of people of active age, especially by tackling youth employment. Regulations for a sustainable work–life–family balance to facilitate the labour force participation of women through improved childcare and maternity and parental benefits are being put in place in countries (e.g. Canada and Sweden). Scandinavian family benefit policies seem to have been notably successful over recent decades.

⁷¹ Countries reporting on improving the coordination and integration of employment and social policies include Ecuador, Mongolia, Tunisia and Uruguay, *ibid.*, paras 504–507.

⁷² EU: *Presidency Conclusions*, Barcelona European Council, 15–16 March 2002, Document SN 100/1/02 REV 1, para. 32.

98. A need for policy coherence of social protection and employment policies arises also in the context of the new welfare–workfare mix that has emerged in some European countries. Policies placed more emphasis on mandatory labour market participation with important implications for the disabled and long-term sick who had to face new measures of tightening eligibility criteria, reduction in the level and duration of benefits, subjecting benefits to work and activity tests and increasing sanctions, surveillance and control. A number of other countries seem to be taking decisive steps to reduce withdrawal from the labour market through invalidity. The Dutch experience with disability benefits illustrates the challenges resulting from interactions between social security and employment policies. The disability pension scheme, as is the case in many countries facing waves of increased unemployment as a result of structural adjustments and economic transformations, was used as a pathway of early exit from the labour force for workers made redundant. The rising number of beneficiaries undermined the sustainability of the scheme. This led to a series of reforms in the 1990s which aimed at restricting entitlements to disability benefits, while at the same time promoting the employment of older women and men with disabilities. The most recent reform through the Act on work and income according to labour capacity enacted in 2006, puts a strong emphasis on integration into the labour market for those with an earnings capacity of more than 20 per cent through the provision of a benefit replacing a certain percentage of earnings lost due to disability for a certain period, after which claimants have to resort to social assistance.

99. The General Survey concerning social security instruments (2011) points out the importance of balancing the protection objectives of social security mechanisms with the activation objectives of employment services, respecting the concept of principles of “suitable and freely chosen employment” laid down in Conventions Nos 168 and 102. The tendencies in some countries ⁷³ to tighten eligibility criteria for unemployment benefits and to oblige unemployed persons to apply for and take up immediately any ordinary work a person is able to perform can contradict the very purpose of unemployment benefits aimed at protecting workers from being forced to take up any work, even below their level of education and skills, at least for some time after their dismissal. Ensuring suitable employment in respect of the qualification and skills of the jobseeker will also ensure the most effective utilization of the human resource potential and the preservation of the overall quality of a workforce in the economy.

Promoting the formalization of employment

100. The high level of informality of employment, and the risk of further informalization and growth of atypical and precarious employment are among the biggest challenges for a number of countries. Levels of informality are generally much lower in most high-income countries compared to low- and middle-income countries, but there have been concerns about an increase in precarious employment and informality in countries at all income levels. The repercussions of the global financial and economic crisis have contributed to an increase in informality in large parts of the world, and may give rise to negative effects on social and economic development in the medium and the long run.

101. One of the challenges for the formalization of employment is to ensure social security coverage for workers in small and micro-enterprises and for the self-employed

⁷³ This is the case for example in Denmark, Germany or Norway, General Survey concerning social security instruments (2011), para. 224.

(see section on good governance, ensuring compliance). Bringing these groups under the umbrella of social protection provided by labour and social security legislation is one important step, but it is not sufficient to ensure effective coverage, as compliance ratios tend to be low. A number of countries have engaged in promoting the extension of coverage for these groups, e.g. Jordan, by including companies with less than ten employees in social security coverage, or using simplified contribution and tax collection systems for small enterprises and the self employed as in the Monotributista schemes in Argentina, Brazil and Uruguay, leading in part to dramatic increases in coverage. In fact marginal workers can be included in social security coverage and hence the formal sector as the successful inclusion of domestic workers into unemployment insurance funds in South Africa has demonstrated.

Increasing the productivity of the workforce

102. Investments in basic levels of social security have positive economic effects. Societies which invest in people through basic social protection mechanisms including health protection policies can move towards developing their full productive potential. These investments help to create a population that is sufficiently healthy, well nourished, educated and better employable in the formal economy. Evidence is emerging from the analysis of existing transfer schemes, which all indicate that these benefits increase the health, nutritional and educational status of children.⁷⁴ This will translate into higher productivity, as evidence from the *Oportunidades* scheme in Mexico shows.⁷⁵

2.7. Financing arrangements⁷⁶

2.7.1. International legal and conceptual framework

103. The need to ensure the long-term sustainability of national social protection floors by financing them from domestic sources or revenue was recognized by the ILC in its conclusions concerning social security (2011). However, it was noted that “there may be cases where these resources are insufficient to extend the social protection floor to all in a short time frame”. In that respect, “International cooperation can play an important role in helping member States to initiate the process and build the national resource base with a view to ensuring sustainable financing mechanisms.”⁷⁷ It was further concluded that “Governments of member States should consider and/or undertake ... ensuring the financial, fiscal and economic sustainability of social security systems through appropriate policies and different financing mechanisms, developed in consultation with or by social partners as appropriate.”⁷⁸

⁷⁴ See *World Social Security Report 2010/11*, p. 110.

⁷⁵ S. Levy: *Progress Against Poverty: Sustaining Mexico's Progresa/Oportunidades Programme* (Washington, DC, Brookings Institution, 2006).

⁷⁶ For further information, see also the report for the recurrent discussion on social security, Chapters 4.2 and 5.2.3; General Survey concerning social security instruments (2011), Part IV Chapter 1; *World Social Security Report 2010/11*, Chapter 8; *Extension guide*, Chapter 2.4 and 2.5.3; as well as ILO: *Can low-income countries afford basic social security?*, Social Security Policy Briefings, Paper 3 (Geneva, 2008); and ILO: *Social security for all: Investing in social justice and economic development*, Social Security Policy Briefings, Paper 7 (ILO, 2009).

⁷⁷ Conclusions concerning social security (2011), para. 18.

⁷⁸ *ibid.*, para. 33(h).

104. With regard to the financing of social security, ILO social security instruments, and notably Convention No. 102, are based on the principle of the collective financing of benefits, following which the cost of benefits, and expenses for their administration, shall be borne collectively by way of insurance contributions or taxation or both, and distributed fairly among the stakeholders.⁷⁹ Under the comprehensive framework of Recommendations Nos 67 and 69, general principles common to all branches of the social security system, being applied to the medical care branch, would require countries to orient their health-care strategy according, notably, to the principle of resource pooling and solidarity. A medical care branch should be financed collectively so as to ensure its long-term viability and progressive development promoting social stability and cohesion in society.⁸⁰

105. For the CESCR, the need for the allocation of adequate fiscal and other resources at the national level is part of the State's obligation to develop a national strategy for the full implementation of the right to social security.⁸¹

2.7.2. National law and practice

Financing arrangements and expenditure

106. Social security benefits can be financed by a variety of sources, ranging from general revenues to earmarked taxation, to social security contributions, to private insurance contributions or out-of-pocket payments for health services. Most countries use an idiosyncratic mix of financial sources.⁸² Financing patterns usually develop over decades of social security history and mirror national preferences with regard to the organization of national social security systems. The weights of taxes versus contributions mirror preferences for national solidarity in tax-financed systems or group-based solidarity in insurance-based systems.

107. Most national financing systems generally finance basic benefits, i.e. conditional, unconditional or means-tested basic social transfers and essential health services, provided on a universal or selective basis by general taxation. For health financing arrangements, there is a greater diversity of financing arrangements including direct tax financing of health services (subsidized) insurance systems or mixed schemes. Many health systems suffer from chronic underfunding.

108. According to a World Bank study,⁸³ in 2008 about half of the 72 countries for which data on "basic social safety nets" could be collected spent less than 2 per cent of GDP on these benefits. The average for the EU was less than 3 per cent of GDP, out of a total average social expenditure of 25 per cent.⁸⁴ The majority of developing and middle-income countries for which data were available spent less than 30 per cent of their social expenditure on basic social security. As a general rule, the share of social assistance or safety net expenditure as total national social expenditure declines, as economies mature and formalize and average incomes increase.

⁷⁹ Convention No. 102, Article 71(1) and Recommendation No. 67, Paragraph 26.

⁸⁰ Recommendation No. 69, paras 6(c) and 7(b).

⁸¹ CESCR General Comment No. 19, para. 41.

⁸² See more details in report for the recurrent discussion on social security, pp. 40 and 41.

⁸³ As quoted in ILO *World Social Security Report 2010/11*, p. 75.

⁸⁴ *ibid.*, p. 73.

109. ILO estimates indicate that social protection floor cash benefits could be financed in a number of developing countries by between 2.2 per cent and 5.7 per cent of GDP in the case of universal benefits and substantially less in the case of means-tested benefits. Mauritius, for example, as one of the few African countries with a near complete social protection floor of non-contributory benefits, finances it with about 3 per cent of GDP⁸⁵ or about 12 per cent of total government expenditure. Examples like the *Bolsa Familia* schemes in Brazil and the Benazir income support scheme in Pakistan show that substantial elements of social protection floors can be financed by about 0.3 to 0.4 per cent of GDP, while ILO estimates for Viet Nam indicate that a complete closure of the social protection floor coverage gaps in the country could cost as much as 2.6 per cent of GDP.⁸⁶

110. On the whole it appears that depending on national preferences with regard to tax-financed versus contribution-financed universal benefits, cash social protection floor expenditure in mature social security systems does not have to exceed 10–30 per cent of all national social expenditure. Perhaps the most interesting finding when analysing national social expenditure is that countries with the same level of government spending allocate widely different proportions of their available resources to social security. “Thus, the size of social security investment ... depends to a significant extent on the prevailing political and social will ...”⁸⁷

111. Some countries are reported to have introduced various measures to ensure adequate levels of financing including earmarked levies for social security expenditures and broadening the general tax base both through improving tax collection and introducing new taxes, including excise taxes on alcohol or tobacco, luxury taxes, taxes on polluting activities or on specific sectors like the pharmaceutical industry. For example, in Algeria, since 2006 2 per cent of the revenues from the oil industry have been allocated to the social security budget and in 2010 a social security fund was created which is filled by a part of the revenues coming from the tax on tobacco, on profits from the import of medicines and the tax on the purchase of yachts. In Ghana, 2.5 percentage points of the VAT are earmarked and paid to the National Health Insurance Authority.

Financial management

112. Countries emphasized in their replies to the General Survey that financing provisions, benefits levels, delivery and administrative arrangements need to be designed in a way that a long-term financial balance between expenditures and resources is ensured. Despite a diversity of financing arrangements across countries, it is likewise acknowledged that this requires sound financial management on the basis of principles and good practices such as:

⁸⁵ Estimated on the basis of the report *Social Security Statistics 2003/2004–2008/2009*, by the Government Statistical Office. Mauritius, www.gov.mu/portal/goc/cso/ei827/socsec.pdf [accessed on 8 July 2011].

⁸⁶ ILO: *Compatibility analysis of the national social protection strategy and the UN Social Protection Floor Initiative – Costing and financial projections to implement social protection policies, 2011–20*, forthcoming.

⁸⁷ *World Social Security Report 2010/11*, p. 99.

- ❑ Conducting repeated long-term actuarial valuations that allow corrections of potential financial disequilibria. Actuarial valuations should also be conducted when planning reforms of social security systems;⁸⁸
- ❑ Setting up contingency reserves or stabilization funds that ensure a reliable provision of benefits during cyclical economic fluctuations or even in case of unforeseen expenditure shocks, for example through financial, economic or natural crises that suddenly increase the number of beneficiaries;⁸⁹
- ❑ Establishing sound investment rules for any reserves built up following the principles of safety, yield and liquidity;
- ❑ Establishing a sound overall regulatory and monitoring framework to minimize inefficiencies, mismanagement, fraud and misuse;
- ❑ Collecting reliable statistical (socio-economic, demographic, financial) data as necessary for the sound management of the schemes;
- ❑ Providing adequately trained staff to ensure the availability of the necessary specialist knowledge for the reliable performance of management, actuarial, statistical and investment tasks;
- ❑ The collective/solidarity financing of benefits and risk pooling;
- ❑ The ultimate responsibility of the government is to ensure the sound financial management of social security schemes and the due provision of benefits regardless of the financing sources and mechanisms.⁹⁰

113. Countries with mature social security schemes increasingly face financial pressures regarding the sustainability of their schemes, which lead to efforts to improve the management of the systems to increase their efficiency. The reports refer to different measures introduced by governments since the late 1990s, including:⁹¹

- ❑ improved coordination between fiscal reforms and social security reforms;
- ❑ improved coordination and integration of different social security schemes to reduce administrative costs and to ensure closer collaboration between social security institutions and other government departments and public services;
- ❑ the extension of the base for social contributions to include income both from activity and capital;
- ❑ the enhancement of the link between social protection and employment policy;

⁸⁸ Regular actuarial reviews are required by law, for example in Cameroon, Ghana, Jamaica, Lao People's Democratic Republic, Lesotho and Namibia, General Survey concerning social security instruments (2011), para. 468.

⁸⁹ Countries that have reported the establishment of reserve funds in their social security schemes include Algeria, Cameroon, China, Finland, Japan, Luxembourg, Republic of Moldova, Philippines, Poland and Romania among others, *ibid.*, para. 469.

⁹⁰ In some country replies, "governments frankly, admit being unable to accept and fulfil the responsibility for the proper maintenance of their social security system" including e.g. Antigua and Barbuda and Uganda; *ibid.*, para. 457. Other countries report that government guarantees for the provision of benefits is enshrined in the national legislation and organized through subsidies from the state budget: Azerbaijan, Brazil, Philippines, Romania, Russian Federation; *ibid.*, para. 470.

⁹¹ For further detail see *ibid.*, paras 330–396 as well as paras 462–495.

- ❑ the improvement of the coordinated exercise of inspection activities and tougher sanctions designed to strengthen endeavours against evasion of contribution payments, undeclared work and fraud;
- ❑ faster, simpler and more client-oriented administrative procedures, including for appeal, complaint and mediation services.

114. The measures to improve efficiency also display a trend of centralizing numerous agencies into unified institutions through an integrated model of management with a simultaneous decentralization of the delivery of the services. This was clearly the case in Norway, Portugal and Spain where the responsibilities of the ministries responsible for social security and those responsible for labour, training and employment were merged. Likewise, the administrations providing employment services and those providing social security services were unified in Belgium, Spain, Sweden and Turkey.

2.8. Governance⁹²

2.8.1. International legal and conceptual framework

115. The conclusions concerning social security (2011) recognized the importance of social security governance and notably the need for social security “to be well-managed and administered to ensure effectiveness in reaching agreed objectives, efficiency in using resources, and transparency ...”. It further emphasized the importance of “Active involvement of all stakeholders, and in particular workers and employers through effective social dialogue mechanisms and tripartite supervision ...” as a means to secure the good governance of social security systems.⁹³ The general responsibility of the State for effective and efficient social security, the role of social dialogue in identifying and defining priority objectives and in the design of corresponding schemes and in the ... monitoring of financial sustainability and the social adequacy, effectiveness and efficiency of management and administration of social security schemes.⁹⁴

116. The realization of the human right to social security, under human rights instruments, would require, according to the CESCR, that a social security system be established under domestic law, and that public authorities take responsibility for the effective administration or supervision of the system. The schemes should also be sustainable, in order to ensure that the right can be realized for present and future generations.⁹⁵ Furthermore, “Beneficiaries of social security schemes must be able to participate in the administration of the social security system. The system should be established under national law and ensure the right of individuals and organizations to seek, receive and impart information on all social security entitlements in a clear and transparent manner.”⁹⁶

117. ILO social security standards lay down a series of general principles and guidelines for the good governance of social security systems. Convention No. 102 notably stipulates that: the system shall be supervised by the public authorities or administered

⁹² For further information, see also report for the recurrent discussion on social security, Chapter 4.3.2 and 5.2.4; General Survey concerning social security instruments (2011), Part III; *Extension guide*, Chapter 2.5.

⁹³ Conclusions concerning social security (2011), para. 22.

⁹⁴ *ibid.*, paras 23–26.

⁹⁵ CESCR General Comment No. 19, para. 11.

⁹⁶ *ibid.*, para. 26.

jointly by employers' and workers' organizations whose contributions represent the largest share of social security revenues; representatives of the persons protected, which include social groups outside wage employment, shall participate in management if the administration is not entrusted to a public institution; and that the State must accept general responsibility for the due provision of benefits and for the proper administration of the institutions and services concerned.⁹⁷ Recommendation No. 67 also puts forward key principles for the good governance of social security: the certainty and regularity of support (sustainability of schemes/adjustment of benefits to meet standards of living), democratic and transparent governance of the social security system, the oversight by persons protected (and protection of their rights through legal process, and the primary role of the State (responsibility/guarantee)).⁹⁸

118. Recommendation No. 69 lays down basic principles specific to the organization and management of the medical care branch. Specifically, it provides that all medical care should be rationally organized throughout the country with a view to the greatest possible economy and efficiency, centrally supervised, and closely coordinated with general health services.⁹⁹

119. More specifically, as formulated by the CEACR in the General Survey concerning social security instruments (2011):

General principles common to all branches of the social security system, being applied to the medical care branch, require countries to orient their health-care strategy ...

- (3) According to the principle of the general responsibility of the State, the central government should be responsible for formulating the national health policy and for supervising all medical care and general health services, so as to ensure the due provision of care and the proper administration of all the institutions and services concerned, irrespective of the adopted method of financing or administration.
- (4) According to the principle of democratic and transparent governance of the social security system, the management of the health sector should be exercised with the participation of the representatives of the persons protected, of the contributors, and of the medical and allied professions, and provide for a quick and effective procedure of complaint or appeal as to the decisions made.¹⁰⁰

120. The Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113), calls on member States to take "Measures appropriate to national conditions [should be taken] to promote effective consultation and co-operation at the industrial and national levels between public authorities and employers' and workers' organisations, as well as between these organisations ...".¹⁰¹ Furthermore, it lays down that "such consultation and cooperation should aim, in particular ... at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organisations in an appropriate manner, in respect of such matters as ... the establishment and functioning of national bodies, such as those responsible for ... social security and welfare ...".¹⁰²

⁹⁷ Convention No. 102, Articles 71(3) and 72.

⁹⁸ Recommendation No. 67, Para. 27 and Annex, para. 27(1)–(10).

⁹⁹ Recommendation No. 69, Paras 92–111.

¹⁰⁰ General Survey concerning social security instruments (2011), para. 47.

¹⁰¹ Consultation (Industrial and National Levels) Recommendation, 1960 (No.113), para. 1(1).

¹⁰² *ibid.*, para. 5(b)(ii).

121. The monitoring of the performance of comprehensive social security schemes requires significant investments of public resources in statistical reporting systems. Guidelines on social security statistics are included in the resolution concerning the development of social security statistics adopted by the Ninth International Conference of Labour Statisticians in 1957. This resolution states that each country should encourage the development of a system of social security statistics adequate to serve the following major objectives:

- (a) to provide basic data for the administrative control of the social security schemes and the appraisal of their operational efficiency;
- (b) to provide a basis for the appraisal of the financial structure of the schemes, for actuarial valuations and for short- and long-term forecasts;
- (c) to provide a means of appraising the social security system as an instrument of social policy and, in particular, to provide a basis for the evaluation of the level of social security protection afforded to the various population groups;
- (d) to provide general information on social security;
- (e) to supply data for international comparisons in the field of social security; and
- (f) to supply data from administrative and accounting records to satisfy important outside needs in the fields of labour, the economy, health, demographic and other statistics.

122. Unfortunately, more than half a century after the abovementioned resolution was adopted, only a minority of countries, mainly those that are members of the EU and OECD have sufficient statistical systems to enable them to monitor and to evaluate the effectiveness and efficiency of their national social security systems.

2.8.2. National law and practice

The overall responsibility of the State

123. There is a wide consensus among governments, social partners and social security experts that the State should bear the overall responsibility for the adequate social protection of its population, both in terms of ensuring the due provision of benefits and the proper administration of the institutions and services concerned. This principle is also anchored in the related social security standards such as Convention No. 102. However, as the Committee noted with concern in the General Survey concerning social security instruments (2011), the trend towards the privatization of social security schemes during the 1990s gradually reduced the State's responsibility and the principle of participatory administration and management.¹⁰³ While this has produced some positive results with respect to the financial sustainability of social expenditure for governments, it shifted an increasingly heavy burden of the risk and financing onto individuals. In many countries, during the recent crisis, this trend has been put on hold or reversed as strong government crisis responses included strong measures to ensure/increase social security entitlements. Some governments reclaimed responsibilities previously relinquished and taken up by private insurers or enterprises,

¹⁰³ This was the case for example in Latin American (Argentina, Plurinational State of Bolivia, Colombia, Costa Rica, Dominican Republic, El Salvador, Mexico, Panama, Peru and Uruguay) and in the Central and Eastern European countries (Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russian Federation, Slovakia and Slovenia) that formed part of the wave of pension privatization during the 1990s (para. 447).

notably by turning previously privatized pension schemes back into public schemes. In other countries, governments were called upon to introduce measures to remedy low pension entitlements of pensioners who had contributed to funded schemes and retired during the crisis before the assets recovered.

Social dialogue based design and monitoring of system performance

124. The majority of replies to the General Survey concerning social security instruments (2011) recognized the importance of freedom of association and collective bargaining and the participation of social partners in the design and management of social security schemes. Collective agreements played a crucial role in many States to supplement the regulatory function of the State. In Argentina, collective agreements even facilitated the extension of social security to the informal economy by the conclusion of agreements between professional associations of workers with trade union status and representative employers.

125. However, some countries regulate the nature and scope of negotiable issues, sometimes prohibiting the discussion of certain matters or restricting negotiations at certain levels especially in times of economic crisis and financial constraints as shown recently by the cases of some European countries. The ILO Committee on Freedom of Association points out that measures taken by authorities to restrict the scope of negotiable issues or prohibiting negotiations at certain levels against the will of workers' and employers' organizations are often incompatible with the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

Building trust in social security institutions through information, transparency and accountability

126. Many replies to the General Survey concerning social security instruments (2011) emphasized the importance and duty of social security institutions to inform and advise the persons protected.¹⁰⁴ Objectives, procedures and rules for accessing services and benefits should be clearly communicated and the administrative burden for the individual to register for benefits or services kept to a minimum. Records and data of beneficiaries need to be kept confidential and secure and several States passed specific provisions regarding the obligation of institutions to inform and advise beneficiaries automatically on the protection of personal data. In Mexico, the *Ley General de Desarrollo Social (LGDS)* (General Law of Social Development), adopted in 2004, sets the base for the national social policy, including the budget, evaluation procedures and conditions that guarantee accountability and transparency through audits, quarterly budget reports, and the publication of information. Publication of information has to be in accordance with the Federal Law of transparency and access to public government information. According to the law, all social protection programmes must define and make publicly available their rules of operation to avoid having the design and implementation of social programmes left to the discretion of responsible officials. These rules of operation include: target coverage, target populations, eligibility criteria, types and amounts of support, participating agencies, modus operandi, the rights and obligations of recipients, evaluation indicators, and issues relating to complaints and allegations. In India, the Government is undertaking great efforts to provide detailed up-to-date data on the Mahatma Gandhi National Rural Employment Guarantee scheme, mainly through a website that is linked to the government database and constantly

¹⁰⁴ See General Survey concerning social security instruments (2011), paras 397–402.

updated.¹⁰⁵ The NREGA contains further specific provisions for public accountability. Based on statutory directives, a three-pronged strategy for public accountability has been adopted. The first refers to proactive disclosure: annual reports on outcomes to the Parliament and the state legislature are mandated. In addition, the Minister for Rural Development has tabled a statement on the Act in every session, since the passage of the Act. The second concerns information upon payment (RTI): documents have to be made available to the public on payment of a prescribed fee. The third deals with social audit: a social audit of all works in the Gram Panchayat has to be carried out by the Gram Sabha and the Gram Panchayat has to provide all its records for this task.

Efficient and sound administration/ensuring adequate administrative capacity and the training of staff

127. Ensuring the coherence and coordination of national social security schemes and programmes, both contributory and non-contributory, is a prerequisite for the efficient administration of a social security system as well as for achieving effective and adequate protection of the population. Various other aspects of good administration such as a clear regulatory framework, supervision and inspection mechanisms, tripartite participation in the management of the scheme, the close coordination and possible integration of different social security schemes and social security administration with employment services or other public authorities, are discussed in other sections of this report (see in particular the section on financial sustainability, on legal entitlements, and on facilitating transitions from the informal to the formal economy). Overall, the administrative set-up has to meet the requirements of transparency, predictability and accountability. This is achieved through various arrangements including public administration through ministries, specialized agencies, semi-autonomous institutions, public-private hybrids or privatized systems under public supervision. One key challenge for many social security administrations is ensuring adequate skill levels of the officials administering the schemes. A recent trend in state practice has been to step up monitoring efforts and establish performance and impact indicators to evaluate whether the system is operating satisfactorily vis-à-vis its intended objectives. For example, the *Bolsa Familia* programme in Brazil and the *Progresar/Oportunidades* scheme in Mexico had built-in monitoring and evaluation mechanisms at their inception.

Ensuring compliance and minimizing fraud and misuse

128. Most States report that the obligation to register workers with social security institutions generally rests with the employer. National legislation typically requires this to be done either before beginning employment or immediately thereafter (e.g. within three or ten days). Employers, further, have an obligation to calculate, collect and pay the contributions on behalf of their workers and keep related records. The State in turn has the right and duty to supervise compliance with the provisions. Many States¹⁰⁶ have introduced safeguards and sanctions to make sure that employers do not avoid affiliation and have entrusted the labour inspectorate to control also for compliance with social security obligations during on-site inspection visits and by auditing the documents of

¹⁰⁵ See <http://india.gov.in/outerwin.php?id=http://nrega.nic.in/>.

¹⁰⁶ This was reported for example by Argentina, El Salvador, Republic of Fiji, Hungary, Lao People's Democratic Republic, Lesotho, Lithuania, Montenegro, Mozambique, Spain and Sri Lanka, General Survey concerning social security instruments (2011), para. 344.

employers. In other countries,¹⁰⁷ inspection is within the realm of the social security system. Sweden, for example set up a Social Insurance Surveillance Authority in 2009 to improve compliance. Some other countries like Benin, Madagascar or Senegal have mixed systems where both social security inspectors and labour inspectors can control the enforcement of legislation on social security. Recent experiences of countries like Spain who have integrated social security and labour inspection services in one single institution, the Inspectorate of Labour and Social Security, have shown that this improves efficiency and effectiveness. The competencies of these institutions include the right to impose administrative sanctions, the right to initiate legal proceedings and the right to register undeclared employees with social security institutions.¹⁰⁸ However, in many countries where large informal economies employ up to 95 per cent of the workforce there is widespread evasion. Several countries and trade unions also reported their concern about the lack of enforcement of existing provisions, and persistent non-compliance by large segments of the economy.¹⁰⁹ This is the case in registered businesses that do not declare all of their workers. There are also cases where unregistered businesses, operating completely outside the control of social security or other labour standards, do not pay taxes and employ unregistered workers. The design of social protection floor benefits in these countries will be very different from countries where the majority of workers are registered with contributory social security schemes, and social protection floor benefits only cover residual groups not yet or insufficiently protected through statutory schemes.

129. Therefore, minimizing evasion is an important element to make social protection floors more feasible and sustainable, and many countries¹¹⁰ have introduced measures to combat undeclared work and non-compliance by employers and workers. They include campaigns encouraging businesses and workers to enter the formal economy, the establishment of fraud hotlines, increasing fines and sanctions, and improving training for officers of all agencies involved. The rights of officers of social security institutions in terms of collaboration, data exchange and pooling of information with the Ministry of Finance, labour inspectors, tax authorities and other public administrations or entities, as well as banks, have been broadened. Other measures include the centralization of records and contribution collection. With regard to the latter, many countries improved efficiency and compliance by setting up a centralized social security institution to collect and administer contributions¹¹¹ or by integrating the collection of contributions with tax

¹⁰⁷ This is the case for example in Angola, France, Finland, Germany, Greece, India, Malaysia, Morocco, Namibia, Nicaragua, Philippines, Poland, United Republic of Tanzania, Tunisia and United States, *ibid.*, para. 345.

¹⁰⁸ The General Survey concerning social security instruments (2011) discusses these competencies and penalties applied in case of evasion in more detail in paras 351–359.

¹⁰⁹ For example, trade unions of Argentina, Italy or Peru as well as government reports from Argentina, Australia, Belize, Plurinational State of Bolivia, Cameroon, Canada, Chile, Colombia, Djibouti, Ethiopia, Ghana, Guatemala, Hungary, Republic of Korea, Lithuania, Mali, Mauritius, Morocco, Mozambique, Namibia, Panama, Philippines, Portugal, Swaziland, Uganda and Uruguay, *ibid.*, paras 367–373.

¹¹⁰ Examples include Argentina, France, Gambia, Germany, Italy, Lao People's Democratic Republic, Lesotho, Mali, Switzerland and Turkey, *ibid.*, paras 364–373.

¹¹¹ This is practised for example in Algeria, Azerbaijan, Belarus, Brazil, China, Czech Republic, Egypt, France, Ghana, Israel, Japan, Kuwait, Lithuania, Madagascar, Mexico, Namibia, Poland, Saudi Arabia, Spain, Thailand, Tunisia, Uganda and Zimbabwe, *ibid.*, para. 382.

collection.¹¹² This allowed for significant economies of scale, reduced costs and fraud, undeclared work and the evasion of social security contributions. In contrast, it was noted that countries with a very fragmented structure of their social security systems, with many organizations, a lack of coordination and no central supervision of compliance, tended to suffer from high levels of evasion and high overall administration costs.

130. Measures to encourage a transition from unemployment to formal employment have already been discussed under the section concerning policy coherence. The recent trend to better integrate active employment policies with social security policies, including through integrated management models that enable unemployed persons to register for benefits and seek employment services through a single institution, greatly improved the effectiveness and efficiency of public administrations in several countries.

2.9. Extension processes¹¹³

2.9.1. International legal and conceptual framework

131. The 2011 ILC gave the highest priority to closing coverage gaps. Its conclusions concerning social security (2011) affirmed the need for “Effective national strategies to extend social security in line with national priorities, administrative feasibility and affordability” It concluded that national strategies “should aim at achieving universal coverage of the population with at least minimum levels of protection (horizontal dimension) and progressively ensuring higher levels of protection guided by up-to-date ILO social security standards (vertical dimension). The two dimensions of the extension of coverage are consistent with moving towards compliance with the requirements of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and are of equal importance and should be pursued simultaneously where possible.”¹¹⁴ According to the conclusions concerning social security (2011), the Recommendation should, “focus on the extension of coverage to wider groups of the population (horizontal extension of coverage) and thereby supporting the implementation of national social protection floors. With respect to progressively ensuring higher levels of protection (vertical extension of coverage), the Recommendation would encourage member States to ratify and those that have ratified to ensure the effective implementation of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and other up-to-date ILO social security Conventions.”¹¹⁵

132. The principle of the progressive realization of the right to social security is well-recognized and articulated within the UN human rights framework. As with other economic, social and cultural rights, the right to social security is achieved progressively in step with the level of economic and social development of the State and the available financial resources. The ICESCR provides, in this respect, that States Parties are required to take steps to ensure the progressive realization of the rights recognized by the

¹¹² Country examples include Albania, Argentina, Australia, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Estonia, Finland, Hungary, Ireland, Italy, Latvia, Republic of Moldova, Montenegro, Netherlands, New Zealand, Norway, Romania, Slovakia, Slovenia, Sweden, United Kingdom and United States, *ibid.*, para. 381.

¹¹³ For further information see also General Survey concerning social security instruments (2011), Part III Chapter 1; Report for the recurrent discussion on social security, Chapter 5.1; *Extension guide*, Chapter 2.1.

¹¹⁴ Conclusions concerning social security (2011), para. 8.

¹¹⁵ *ibid.*, appendix, para. A2.

ICESCR by developing medium- and long-term policies and programmes, to the maximum of their available resources, including through international assistance and cooperation.¹¹⁶ Although the concept of “progressive realization” affords the State some latitude in achieving the full realization of the right, the UN CESCR in practice requests States parties to demonstrate that they are moving as expeditiously and effectively as possible towards that goal.¹¹⁷ Progressive realization also implies that the States should generally avoid “any deliberate retrogressive measures” which reduce the coverage or level of benefits provided under the social security system.¹¹⁸

2.9.2. National law and practice

133. The challenges to progressively extend social security coverage and the related measures taken differ across regions and levels of development. For countries with very large informal economies and low population coverage, the inadequate coverage of rural populations and urban informal economy workers, homeworkers or domestic workers often pose particular problems. In countries with mature schemes, the issues relate to the changing nature of the labour market, often include a steady growth of self-employment and increasing precariousness including through increased temporary work, seasonal work, part-time work, etc.

134. Over the past two to three decades, a wealth of experience in the extension of social security has developed in countries of all levels of income and development. The strategies differ remarkably, depending on the political, cultural, economic and historic context, ranging from stepping up measures to improve compliance and move towards increased formalization thus creating access to existing social security schemes, e.g. for self-employed or informal economy workers, to creating specific schemes for informal economy workers or developing innovative schemes for specific categories of workers. Measures to attract unprotected persons into existing schemes include the reduction of the number of employees required for a company to fall within the scope of the social security scheme, or the relaxing of certain qualifying conditions such as the number of years of service or contribution periods, reducing contributions, waiving outstanding payments, or allowing the possibility to buy back missing contribution periods.

135. For example, Ecuador started a process in 2010 to reform the social security system based on two strategies: to aggressively increase compliance from the wage-earning contributory population (i.e. those who are not affiliated although their affiliation is compulsory), and to include independent workers and poor people.¹¹⁹ In addition to various schemes targeting specifically the informal sector like the NREGA and Rashtrya Swarthya Bima Yojna (RSBY), India has recently adopted the Unorganized Sector Workers Social Security Act, 2008, which will further facilitate the formulation of policies and programmes to extend social security to the informal sector. South Africa extended unemployment insurance to domestic workers and seasonal farm workers.¹²⁰

¹¹⁶ ICESCR, Article 2(1).

¹¹⁷ CESCR General Comment No. 19, para. 62. In this regard para. 68 specifies that with a view to monitoring progress, States are to put in place a plan of action for realizing the right. This plan of action should include goals and benchmarks (concrete standards of achievement) that are tied to specific time frames.

¹¹⁸ *ibid.*, para. 64.

¹¹⁹ ILO–UNDP–Global South–South Development Academy: *Successful social protection floor experiences: Sharing innovative experiences*, Vol. 18 (New York, 2011), p. 248.

¹²⁰ ISSA: *Good practice review: Extending social security coverage in Africa*, Working Paper, 2009, p.19, www.issa.int/content/download/91344/1830606/.../2-paper2-MSamson.pdf.

Until 2003, domestic workers constituted the largest single category of workers in the country, numbering approximately 1 million – nearly all excluded from the Government’s Unemployment Insurance Fund. Legislation in 2002 required domestic workers and their employers to make contributions to the Unemployment Insurance Fund starting in 2003. By 2008, the number of registered workers reached 633,000 with over 324,000 domestic workers actually receiving unemployment, maternity or adoption benefits as well as benefits in case of illness or death. This shows that significant extension of coverage to the informal sector is possible if appropriate strategies are adopted that take into account the specific bottlenecks facing different groups of workers. Argentina, El Salvador, Guatemala, Honduras and Uruguay also introduced measures to extend social security coverage to domestic workers. Algeria adopted two decrees enabling part-time workers and homeworkers to be included in social security schemes. Several States developed specific schemes to extend coverage to rural areas and/or agricultural workers. For example, Brazil introduced a successful non-contributory rural pension scheme (*Prêvidencia Rural*) in 1971 and China launched a basic pension scheme for rural workers in 2009. South Africa’s Constitution explicitly foresees progressive realization of the right to have access to health care services and social security, within the State’s available resources and through progressive realization. For example, the country extended its child grants programme by successively increasing the age of eligibility. Reducing the age of eligibility extended the social security coverage in Nepal. Albania increased rural pensions with the aim to reach comparable levels of urban pensions over time. In Mexico, coverage of casual agricultural workers is facilitated by exempting workers and employers from paying part of the contributions. Other countries explicitly reject the idea of setting up schemes for specific categories of workers or sectors of the economy, and organize social security schemes by age, means and residence.¹²¹

136. In recent years, many States¹²² have taken steps to improve the coverage of the self-employed, mainly through the compulsory or voluntary affiliation of existing schemes, sometimes creating incentives to join by exempting them from part of the contributions. Other States extend coverage to informal economy workers and other persons currently unprotected by introducing universal schemes. Fourteen countries¹²³ established tax-financed universal basic old-age pension systems, while 22 countries¹²⁴ provide universal social old-age pensions for all those not receiving any other old age pension.¹²⁵

137. Several States have extended the coverage of social health protection through subsidizing or exempting the insurance contributions of those who cannot contribute. Examples include the universal health-care scheme in Thailand, the national health

¹²¹ The General Survey concerning social security instruments (2011) discusses extending coverage to specific categories of workers in paras 307–329.

¹²² Examples include Belize, Canada, Chile, Czech Republic, Dominica, Finland, Germany, Honduras, Indonesia, Jamaica, Republic of Korea, Latvia, Lithuania, Republic of Moldova, Suriname, Switzerland and Syrian Arab Republic, *ibid.*, paras 325–329.

¹²³ Plurinational State of Bolivia, Botswana, Brunei Darussalam, Cook Islands, Kenya, Kiribati, Kosovo, Mauritius, Namibia, Netherlands, New Zealand, Samoa, Seychelles, Timor-Leste, Zambia (HelpAge International Pension Watch Database, *op. cit.*).

¹²⁴ Azerbaijan, Bahamas, Barbados, Belarus, Bermuda, Cyprus, Estonia, Finland, Kazakhstan, Kyrgyzstan, Latvia, Lesotho, Lithuania, Maldives, Republic of Moldova, Nepal, Panama, Swaziland, Sweden, Thailand, Turkmenistan and Viet Nam, *ibid.*

¹²⁵ *ibid.*

insurance scheme in Ghana, and the nationwide *Mutuelles de Santé* (mutual health system) in Rwanda.

138. The extension of social protection floor guarantees not only applies to a gradual extension of population coverage but also to the range and level of benefits. As some countries may not be in a position to immediately introduce all the elements needed to ensure income security through the life cycle and access to medical care, countries may need to set narrow eligibility criteria that are gradually widened, or sequence the introduction of benefits for children, the elderly or people of working age according to national needs and priorities. Likewise, some countries have gradually extended eligibility criteria and scaled up the level of benefits in line with economic development and domestic resources. For example, Nepal introduced a universal social pension scheme in 1995 for people aged 75 and above. In the fiscal year 2008–09, the Government of Nepal reduced the age threshold for older people from 75 years to 70 years, and recently this was again lowered to 65 years for certain particularly vulnerable groups. Simultaneously, benefit levels were gradually increased to the current level of 500 Nepal rupees (NPR) (US\$7 PPP). While this is still criticized as being too low, it nevertheless marks a significant increase from the initial level of NPR100. Similarly, Ghana gradually introduced exemptions from the national health insurance contribution for pregnant women, then for children under six and later for children under 18 years of age. The LEAP conditional cash benefit programme in Ghana is rolled out gradually, starting by targeting the poorest area councils in each district.

2.10. Interim conclusion: Identification of elements of a Recommendation on social protection floors

139. International legal instruments aim to provide universal coverage and protection. However, coverage gaps and benefit level deficiencies persist around the world. While a number of innovative schemes seek to fill protection gaps in a range of countries in Africa, Asia, Europe and the Americas, not many of these national schemes have been formulated as part of a coherent legal framework that forms an explicit component of a strategic national development plan. Where they have, effective implementation often remains a challenge.

140. As the 100th Session of the conclusions concerning social security (2011) has concluded that there is an obvious need for the ILO to formulate guidance on basic social security through national social protection floors, a new Recommendation on social protection floors would be the first international instrument to fully take the newly emerging realities of social security into account.

141. A certain number of key elements for a new possible Recommendation can be obtained from the above analysis of national law and practice, the state of international law on the issue, as well as the discussion at the 100th Session of the ILC and the resulting conclusions. These elements are as follows:

- (a) The need to embed national social protection floors as a coherent, comprehensive and coordinated set of nationally defined basic social security guarantees into a wider national social protection extension strategy which in turn should be an integral part of wider national development frameworks.
- (b) Up-to-date ILO instruments on social security have provided and still provide in many cases helpful guidance on the formulation of higher than-floor level social security objectives.

- (c) There are a number of common principles that should govern national social security extension strategies that underpin their long-term political, financial and economic sustainability. These refer to:
- (i) the need to formulate the ultimate objective of adequate social protection for all, across the life cycle, and in line with national social needs and economic and fiscal capacities;
 - (ii) the need for progressive implementation of national extension strategies including social protection floor guarantees, albeit with a clear formulation of steps and milestones, so as not to lose sight of the overall objective;
 - (iii) the need to establish, through the formulation of social security extension and social protection floor strategies, clear links and coherence with employment and other national social and economic policy objectives;
 - (iv) the necessity to combine the objectives of preventing poverty, protecting against social risks and empowering individuals to seize decent employment and entrepreneurship opportunities;
 - (v) the necessity to follow meticulously sound financing methods and financial management practices in a transparent way in order to maintain the national consensus on the scope and extent of social security;
 - (vi) the necessity to enshrine guarantees and benefits in national legislation to ascertain benefit reliability and predictability;
 - (vii) the necessity to establish robust and transparent governance principles, including the central responsibility of the State and the role of social partners and beneficiaries in the design, general and financial management, and monitoring of social security systems; and
 - (viii) the need to give particular attention to gender-responsive approaches.

142. In addition to these common principles, there are a number of elements that need to remain the responsibility of member States and technically cannot be generally prescribed. They relate to:

- a. the exact range and type of benefits, the organizational and conceptual form (i.e. universal benefits, insurance-based benefits, means-tested and/or conditional benefits, benefits in cash or in kind) for the implementation of the social protection floor guarantees which can only be determined at the national level; and
- b. the level of benefits provided which can only be established according to national circumstances, such as the levels and distribution of income in the country, the availability of a health and social service infrastructure, the dimension of national fiscal space, etc.

143. The following section seeks to incorporate the above principles and elements into a questionnaire, the replies to which will guide the content of a possible new Recommendation.