

Schemes of social insurance system

Dr. Zhaklina Peto, (PhD)
University of Tirana

Dr. Kestrin Katro, (PhD)
University of Tirana

Abstract

In this article we will analyzed the social security schemes as important elements of this system but also to the individuals. Social security schemes have been established and developed for a very important purpose, to protect individuals and their families against the attack of social risks.

For the effect of organizing better social security, the Social Insurance System provides benefits to individuals divided into three groups, or otherwise termed, into three schemes:

The scheme of special benefits. The scheme of general benefits. The scheme of unemployment.

Analysis of elements of these schemes is treated in detail by virtue of the basic principles of this system the directives of the Council of Europe, as well as international conventions.

Key words: social Insurance, Disease scheme, the scheme of work accident and occupational diseases, Pregnancy scheme, Pension scheme, Unemployment scheme.

Social Insurance Schemes have been considered as a component that have radically transformed the life of common people, because of the fact that these schemes assist the individual in the case of the loss of income resulting from injuries at work, sickness, unemployment or death contributing thus to protection of individual against the affect of complete poverty.

In the way towards this transformation, the schemes of social security have been assumed as the first pillars of security, which get into operation and replace the incomes during the period when the earnings of the individual are interrupted or minimized because of unemployment, sickness, invalidity, work accidents, occupational diseases, and old age.

In addition, protection of individuals against the above-mentioned events has been complemented by other protective schemes, such as *the scheme of health insurance*, which operates for needy individuals and also their dependents, etc.

The concept of social protection is progressively expanded followed by another very important and efficient system that of *state welfare* or otherwise known as "*economic aid and social protection*". This system deals with the assistance and care of the state for those individuals who are in need. This system covers those families which have immediate need and have a wide impact on public opinion.

However, referring to the foregoing statement, it might be said that the efforts for helping the society in need are not limited here. The structure of social services for the benefit of needy individuals is extended to various services such as food, transport, social care, etc. which, when combined with the payment of incomes, alleviate the situation of individuals.

The structure of social services is not uniform. There are different systems in different countries, and also within the system itself this structure varies, for example, from rural to urban areas. This difference doesn't intend to violate the rights of nationals of a country; it is related to the economic and political development and sometimes to cultural development of areas, which play different roles for both the organizational way and the administration of social insurance scheme. These factors, very frequently, allow different traditional schemes and also adaptive ones, which have a common aim, the establishment of new forms of economic support towards needy individuals.

However, it should be remembered that in whatever way a country is economically developed, needy people can never fulfill their needs to the required extent under the schemes of social insurance.

During the historical treatment of social security systems, it has been noticed gradual development of terminology, content and the purpose for the establishment of social protection systems up to date. Surely, the same can be said even for the composing schemes of social insurance system.

The first schemes of social insurance have been established for providing protection in case of *employment injuries*. Later, several schemes have been developed in different countries, which have been evaluated as very important with regard to their aims, for instance, in some countries the schemes of social insurance have considered as priority payments for health services, sickness insurance, or benefits for pregnant women, etc. and this is because of the fact that such services provide short-term benefits and consequently bring immediate effects on individuals, and resulting also in consolidation of the confidence of individuals towards these schemes especially of young workers while their concerns are related more to the present than to the future.

On the other side, special attention in the social insurance scheme is devoted to the category of old aged people and to the significance of establishing the foundations

of an economic support not only for old people, but also for those persons that are obliged to retire earlier because of their health reasons.

Another thing related to social insurance schemes, which is to be underlined, is that they should be based on anticipated and developed programs taking into account both, the most urgent needs of a country and also organizational and administrative capacities of these programs in order to be more effective for individuals. Programs related to operation of schemes should be firmly based not only on the principle of universality but also on the principle of gender equality.

Based on above-mentioned principles, we must point out that these schemes should operate equally all over the territory of a country and provide equal benefits to all people regardless of gender or ethnicity. These obligations are pursuant to Article 1 of the "European Convention on Human Rights", "Obligations for respecting human rights" and also in accordance with Article 14 of this Convention "On Prohibition of Discrimination"

Application of the principle of gender equality between groups participating in these schemes is an important element, which influences directly on the status of participating individuals. In order to eliminate discrimination between individuals participating in these schemes, an important role has played also the Directive 79/7 of the EEC "The third directive for equal treatment between men and women in the field of social insurance".

This directive prohibits direct and indirect discrimination because of gender, Article 4(1)¹.

From above reference we understand that social insurance scheme is a very important component for the operation of entire system of social insurance.

Social insurance scheme is the restructuring of the basic system of social risk. It means that each branch of the scheme represents a certain risk. The scheme is restructured in this way for several reasons, which are:

Firstly, for the effect of providing services to society when it is attacked by social risk. By separating social risks, then it will be easier to provide benefits according to each incurred case.

Secondly, for the effect of controlling the administration of social insurance funds related to beneficiaries.

¹ See the "Guidance for Legal Standards and Jurisprudence related to the issues of Gender Equality", Magistrate School, page 29.

Thirdly, for the effect of developing the policies that will be undertaken to increase the efficiency of social insurance system which operates in the country towards the beneficiaries².

In order to assure a better and more productive and flexible operation of the social insurance system, of its most important processes mentioned above, the Social Insurance Institute has the task to apply and improve some important objectives, which are:

- Determining the incomes based on subjective conditions and needs;
- Increasing the funds of Social Insurance;
- Applying legal requirements.

Thanks to the aim for realizing far better the social protection of individuals of the society, several schemes have been established related to social insurance. These schemes provide benefits when certain subjects are attacked by social risks. For the effect of organizing better social security, the Social Insurance System provides benefits to individuals divided into three groups, or otherwise termed, into three schemes:

- ❖ The scheme of special benefits
- ❖ The scheme of general benefits
- ❖ The scheme of unemployment

The scheme of special benefits

This scheme provides benefits which are also termed "*short-term benefits*". This group is classified into these divisions:

- Sickness insurance
- Pregnancy insurance
- Insurance for employment injuries and occupational diseases

These divisions are included in the group of short term benefits because of the administrative similarity to each other.

Let see the similarity of these divisions taking into account the definitions made for each one under the Convention no.102 of the International Labor Organization "*For Social Insurance (Minimal Standards)*".

Regarding "*sickness benefits*", Article 14 of this Convention designates:

² The scheme determines the amount of contribution covered under social insurance, provision terms and the amount of benefit for each social risk.

“Covered cases will include work disability resulting from a pathological status and associated with the loss of income, as it is specified in laws and sub-laws being effective in a country”.

The Convention also determines that the length of time for benefiting under sickness insurance may be accordingly up to 26 weeks.

Regarding *“pregnancy benefits”*, Article 46 in Convention 102 of the International Labor Organization *“For Social Insurance (Minimal Standards)”*, specifies that:

“Covered cases will include the pregnancy and post-natal periods and consequences occurred thereof and the loss of income, as it is specified in laws and by-laws of each country for this purpose”.

With regard to *“employment injuries and occupational diseases”*, Article 32 in Convention 102 of the International Labor Organization *“For Social Insurance (Minimal Standards)”*, specifies that:

“Each member state for which this Convention is in force will provide insured persons with benefits for accidents at work in accordance with the articles following this part”.

Referring to the definitions of these three divisions made in Convention no. 102, we can run into the conclusion that these three branches have the following common elements³:

Work disability

Work discontinuance

Benefits

Under the scheme of special benefits, payments for sickness insurance are delivered at the time when the individual discontinues his job because of his pathological condition resulted from different reasons. One thing that should be taken into account related to benefits from sickness insurance scheme, that pathological condition attacking the individual shouldn't have been caused due to employment relations (work accident and occupational disease).

However, referring to above statement, we cannot sidestep the fact that also during employment it should be taken care regarding the attack of the employee by the pathological diseases. It should be pointed out that the prevention of social risk remains always the most important event and then comes its solution.

³ For more details related to the areas of persons included and application period see Convention no. 102 of the International Labor Organization *“On Social Insurance (Minimum Standards)”*. Exactly see: Part III *“Disease benefits”*, Part VI *“Work accident benefits”*, Part VIII *“Pregnancy benefits”*.

Disease is associated with work discontinuance and also by reduction or interruption of financial earnings incurred by work salary.

Work discontinuance is an unpleasant thing for both employer and employee because of the fact that the employer has to cover the payment of the employee for 14 days, while the employee will get a reduced salary during this period⁴. Therefore, the employer should be encouraged to improve security and health working conditions for his employees seeking to fulfill the following:

- *Eliminating, as much as possible, the causes of bad health;*
- *Providing consulting and educational facilities for enhancing health and encouraging individual responsibility of health issues;*
- *Preventing, as much as possible, infectious diseases and other epidemic diseases and accidents⁵.*

When work disability lasts more than 14 days, then the individual becomes a beneficiary of sickness insurance disease. In order to get incomes from the schemes of short-term benefits, an individual should be furnished with a medical report where his work disability is certified by competent authorities.

Work disability is a very important moment and therefore it is often related to the profession of the individual claiming work disability because of the fact that circumstantial evidences are important as much as the opinion of doctors. For example, conditions which make a miner unable to work, cannot prevent an official to go to his office.

Work disability resulted from a disease continues for a short period of time because the disease can be cured under medical care and after the recovery the individual can go back to work.

On the other side, a question can be raised: While an individual, because of his disease, is not able to return to his work again even after a long medical treatment, what does it happen? If the individual has employed all the terms determined by law for healing his disease, then other insurance schemes will continue with the payment of disease benefits. Practically, disease benefits will be replaced by benefits of long-term invalidity.

The reasons for establishing short-term schemes are closely connected with these elements:

- reduction of expenses of long-term insurance schemes;
- reintegration, as soon as possible, of individuals in employment activity.

⁴ Laws of several advanced countries allow the payment of work discontinuance to the amount of 100%. Our schemes provide up to 80%.

⁵ Article 11 of European Social Charter, revised

Expenses related to short-term diseases comprise a very high percentage in the total amount of social insurance funds.

It should be remembered that every country develops and establishes social insurance schemes based on its economic capacities, however, apart from economic potentials, execution of some international standards remain to be responsibilities for any state. One of these international important obligations is the application of Convention no.102 for "Minimum Standards in social insurance area", 1952.

In the case of short-term benefits for sections of diseases, this Convention specifies these minimal standards:

- When the scheme defines a ceiling payment for disease benefits, it must be taken into account that this amount should be sufficient. This amount is considered as sufficient when it covers 45% of the total sum that an employee with his wife and 2 children would have earned according to their payroll.

- When the scheme of short-term benefits foresees other benefits related to the salary. In this case, it should be taken into account that the amount of such benefits must be sufficient to the extent that while it is added to monetary sum being available at the time of disease, it should comprise 45% of the amount that the beneficiary would have earned under his payroll.

Besides the sickness insurance schemes, international conventions have paid attention also to pregnancy insurance scheme.

Payments under pregnancy insurance are benefited when a woman discontinues her job because of her pregnancy which has aggravated her health conditions. Apart from benefits derived from international conventions, the EEC has adopted several directives of protective nature for creating better conditions and facilities for such category of people. For example: The Directive 92/85 of EEC, dated 19 October 1992 "*Introducing measures for encouraging improvements of the security and health safety at work of prenatal and post-natal working women*".

When it is not possible to work due to pregnancy or due to approach of the time of birth, a female becomes immediately a beneficiary under pregnancy insurance scheme, receiving cash incomes and some other facilities related to her job (**See the Chapter "Benefits under Social Insurance Scheme"**). These incomes or other benefits of pregnant females have been organized in such a way that can cover partially or completely the loss of incomes because of pregnancy.

For the purpose of assuring an effective exercise of the rights of employed women for protection of pregnancy, Article 8, "*The right of employed women to protection of pregnancy*", in the European Social Charter, lays down that: Parties are involved in:

- *Undertaking measures, either through paid work-leave, or benefits under social insurance schemes, or benefits through public funds, to enable employed women get prenatal and postnatal work-leave up to the total of at least fourteen weeks;*
- *Considering illegal for an employer informing a women for dismissal from work at the moment when she informs her employer that she is pregnant, until the end of maternity leave, or to give her notification for dismissal at such a time when the date of notification expires within this time;*
- *Taking actions to enable mothers to interrupt their work for breastfeeding their newly born babies;*
- *Drafting rules for conducting night-shift work for pregnant women, or for women following childbirth or for those breastfeeding their newly born babies;*
- *Prohibiting the employment of pregnant women, or of women after childbirth or those breastfeeding their newly born babies in mines or other jobs that are not suitable for them because of their hazardous nature, unhealthy or heavy work and ensuring the protection of the right to employment of these females.*

The area of work accidents and occupational diseases is one of the most prevailing branches of all social insurance systems in the world. Initially, this branch was called by different names, such as "compensation of workers". Such name was given because it provided benefits for disability at work resulted from employment conditions. This disability may be temporary or permanent, partial or complete.

In 1964, the Convention for "Benefits from work accidents", it was used the term "industrial accidents", a definition which was later adopted by most national laws.

Different schemes restrained their attention to personal accidental injuries occurring in the course of employment. However, these schemes, applying the Convention of 1964, have liberalized and expanded the employment accident scheme, including in this term also those injuries that happen on the way from workers' house to their working posts. (This scheme is adopted in Scandinavian countries, Greece, Italy, Albania, etc.).

In the initial steps of work security, attention was concentrated to work accidents because of the fact that work conditions were very primitive, which caused many accidents in the course of employment activities. Owing to their bad work conditions, individuals endeavored continuously to expand the scope of work protection including in this scheme also occupational diseases. Occupational diseases were considered those diseases which were caused in the course of work processes.

Referring to the practices of developed countries, there have been difficulties in determining the diseases that are covered by the law on work accidents, excluding

thus common diseases which affect normally the people. Usually, for facilitating the identification of diseases resulting from occupational diseases, and also to reduce the claims of individuals related to them, various national legislations have prepared a list of diseases, which are originated from work or from the contact with harmful substances.

The first definition for substances that cause diseases was made in a conference organized by ILO in 1925. The conference agreed for three substances that cause occupational diseases: *toxicity from lead, mercury and anthrax*. However, several research conducted in this field, associated with further development of science and industry, very soon defined and added to the list other substances that cause occupational diseases.

The efforts for improving and extending the scope of this scheme has never ceased, however, the efforts made for their prevention has been considered one of the most important things. *“Prevention of a disease is better than its remedy”*.

A very important element related to prevention of damages from work accidents and occupational diseases is continuous improvement of working conditions for work protection of employees regarding technical and hygiene-sanitary conditions. “Evaluation of work conditions with regard to above mentioned issue will be interpreted in its narrower meaning, that is, it will be explained as an entirety of technical, healthy, organizational and social measures which are aiming at securing more appropriate conditions for preventing work accidents”⁶.

Referring to the foregoing paragraph, it should be pointed out that work conditions are not only the responsibility of the employer towards the employees. Creation of appropriate work conditions is a legal obligation derived from Article 49 of the Constitution and from the Labor Code and other laws which govern these relations, and also it includes those individuals who are self-employed.

The effect of taking into account the technical and hygiene-sanitary conditions during employment activities is a very important moment for the social insurance system. As we care more for security at work there will be fewer expenses in the scheme of work accidents and occupational diseases.

According to the law on social insurance, the scheme of special benefits furnishes incomes only to subjects that provide compulsory contributions to the scheme.

All three comprising branches of this scheme provide benefits in cases of work discontinuance for a relatively short period of time.

⁶ The paragraph is quoted from the book “Labor Law”, of Prof. Dr. Kudret Cela, edition VII, page 231.

The scheme of general benefits

The scheme of general benefits deals with collection and allocation of incomes (payments) related to benefiting subjects for all types of pensions.

General benefits scheme is also termed as "*pension scheme*". This term derives from the fact that this branch provides benefits for:

- *Old age pension*
- *Invalidity pension*
- *Family pension*
- *Supplementary pension*
- *Special pension*

The general benefit scheme provides payments for all subjects whether are resident or not in our country when they meet legal provisions as follows:

- *Age*
- *Employment duration*
- *The amount of disbursed contribution*
- *Retirement from economic activity*
- *Invalidity medical report*

In order to become a beneficiary of the general benefit scheme, one should reach the age required by law, be a contributor to the scheme, work seniority required by law and retirement from economic activities.

Pension incomes (the pension) are provided for all subjects that fulfill the above-mentioned conditions, regardless of the kind of work or the amount of incomes received during employment.

Practices of retirement payments provided when one reaches a certain age and subject to no qualification conditions, might be justified under the principle that *each subject has the right to rest and to take the life easier*. Expressed differently, many people, while getting older, reach the age when they are not able to work.

In our country, as in many other countries in the world, this scheme is established to provide benefits in the case when one retires from economic activity because of old age or leaves his job on his own request before the legal time of retirement.

All existing long-term schemes specify that pension is benefited at a certain age which is considered normal for such benefit. Pension age is different not only between men

and women, where this difference is 5 years, but also between different professions, where deduction of age is dependent on the scale of professional difficulties.

The difference of pension age of 5 years between men and women apparently seems to breach the Directive 79/7 of the EEC, "*The Third Directive*", "*For equal treatment of men and women in the area of social insurance determined by law or statutory*".

The above Directive prohibits direct and indirect discrimination because of gender⁷. However, Article 7, in this Directive, specifies several exceptions related to discrimination. It doesn't consider discrimination the different age of retirement between men and women, or old-age pension and provisions regulating such benefits, or benefits related to child care and their upbringing and the need for discontinuing employment for such purpose.

When one reaches the pension age determined by law or by a collective agreement, then it might be said that he/she has benefited the full old-age pension.

The experience of many countries has shown that when the pension age is determined, it remains very difficult to increase it, while it can be reduced with no resistance. The Countries that have reduced the pension age have achieved it based on the aim of subjects wishing to benefit premature pension and on increasing demands for new jobs.

The practice of developed countries, which have reduced pension age from 65 years to 60 years, has shown that expenditures of social insurance scheme are increased 50%. There are 40 states so far that have reduced the pension age for those subjects that have worked in conditions that are considered unhealthy. Unhealthy jobs are considered employments in mine industry, in merchant navy or railway transport, etc.

When a subject becomes a beneficiary of the general scheme, or otherwise termed, pension scheme, it is excluded from any other kind of benefits. Differently said, when one benefits from pension scheme, it receives no benefits from other branches of social insurance system.

Old-age pension is mostly a small benefit amount. That's why many subjects are obliged to go on working even after they have reached the pension age. There are other cases when subjects do not like to retire because they want going on with their social active life, therefore, upon their person request and with the consent of the employer, the pension age can be postponed.

⁷ Article 4 (1) in the Directive 79/7 of EEC

In many developed countries, varieties of different long-term schemes are operating, which serve for the people that have reached the retirement age. Among others we can mention the following:

✓ Intermediate schemes

These schemes stand between two extremities: unconditional pension and absolute retirement from economic activity. Under these schemes, the subjects benefit reduced pension along with their work salary.

✓ Schemes for pension qualification

These schemes operate for those subjects that submit a request for retirement in order to be qualified for pension. Pension benefits amount to a regular salary⁸.

Following the qualification period, the subjects enjoy the right to employment. The scheme allows them to be employed under part-time system.

However, there is a very important condition in this scheme: The incomes earned from part-time employment should not exceed the amount specified in the agreement between the parties. When this amount is exceeded, then the amount of pension benefit is deducted or interrupted completely. The purpose for establishing and operating long-term social insurance schemes is to create advantageous conditions for its contributors.

Under long-term benefit schemes, everybody has the right to change mind and terminate pension award and go back to work in order to achieve better pension benefits.

In different countries, there are schemes that allow the advance award of old-age pension before attaining the pension age. However, in such case, the subject should have contributed to the insurance scheme for a period of 20 to 45 years. All long-term insurance programs have the aim to include in their schemes (pensions) all subjects that fulfill legal requirements.

While pensioners are considered a vulnerable stratum, or otherwise said, a stratum which is unprotected against economic changes, it is the responsibility of the state to protect them against economic inflation and strive in maximum to raise their living standards.

Presently, all social insurance schemes arrange the amount of benefits complying with economic changes occurred over different periods of time, controlling thus the actual scale of contributions and supervising closely how adequate these contributions are in order to afford benefits provided under such schemes. Pensions under general schemes are awarded only to those subjects that disburse certain amount of contributions, which may be compulsory, supplementary or voluntary.

⁸ Article 28 of Convention 102 of International Labor Organization, "Minimum Standards in Social Insurance Area".

Unemployment insurance scheme

This scheme is established to award benefits to all those individuals that have lost their jobs because of discontinuance of work activity due to economic reforms. This scheme provides nothing to individuals that have been dismissed from work either for reasonable or unreasonable causes. Provision of unemployment benefits is a right which is also prescribed in the Convention no. 102 of the International Labor Organization *“For the Minimum Standards in Social Insurance Field” of the year 1952.*

Article 19, in Chapter IV of this Convention, specifies that:

“Each member state for which this Convention is in force will provide insured persons with unemployment benefits in accordance with the articles following this part”.

Article 20 of this Convention lays down that:

“Covered cases include discontinuance of incomes, as it is determined in laws and by-laws of the country, resulting from impossibility of securing appropriate employment for the protected person who is capable and available to work”.

Referring to Article 20 of the Convention, it is obvious that every insured person, once he is dismissed from work for reasons that do not depend on him, he should apply to state authorities for provision of employment benefits or for employment. This argument is connected with Article 25 of European Social Charter:

“The right of workers to defend their claims in case of their employers’ bankruptcy.

However, employment of a person is not always easy, especially when one is seeking to find an appropriate job. With appropriate job it means the work that an individual can do complying with his professional and intellectual capacities. Therefore, *employment programs* should manage and enable anyone to work in his profession. Whether employment programs do not take into account professional abilities, then jobs provided under such programs will be considered as jobs under *obligatory conditions* and this is considered a breach of Article 4 of the Convention for *“Protection of Human Rights and Fundamental Freedoms”*.

Benefits from unemployment insurance are financed under the funds of contributions disbursed by employers in the compulsory scheme and a portion of these funds is subsidized by state budget.

Subsidies from state budget are granted because the amount of expenditures needed for this scheme is much bigger than the amount of contributions disbursed by employers. Therefore, the government approves a fund which is granted to the *Labor Inspectorate* to use it for provision of unemployment insurance benefits. The payment of unemployment benefits is accomplished under the cooperation of the government with Labor Inspectorate and the Social Insurance Institute.

In addition, employed persons that wish to be included in unemployment insurance programs may contribute to this scheme.

The conditions for the subjects benefiting from unemployment scheme include:

- being insured (in the branch of unemployment)
- losing job because of restructuring and not for reasons submitted by the subject.

Unemployment insurance scheme provides benefits (payments) to the following subjects:

- unemployed persons because of restructuring, for a time period up to one year
- officers dismissed from armed forces because of reforms in the army.

Subsidies from the state budget to the funds of Social Insurance unemployment scheme are disbursed following a complete investigation of the current employment situation and existing sources of the government in order to cover the contributions for unemployment payments.

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