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AEIP Answer on the Questionnaire of the Social Protection Committee on “Social Services of General Interest”

Introduction

AEIP is composed of social protection institutions jointly managed by employers' and employees' representatives. They are active in the field of retirement schemes (covered by EC Regulation 1408/71), pension funds, health insurance, provident benefits and paid holiday schemes. Their management is based on the principle of solidarity, they are not for profit and they are pursuing social goals.

In other words, as part of the national social protection system, they are fully concerned by a European reflection on social services of general interest as well as a specific initiative on health services as announced following the vote in Parliament on the first reading of the proposal for a directive on services in the internal market.

As a follow-up to the White Paper on services of general interest dated May 2004, the current Communication proposes a progressive approach on the basis of an open process of consultation.

One of AEIP's objectives is to demonstrate the specific nature of services of general interest in the field of social protection and their social and economic efficiency.

AEIP is ready to cooperate to this in-depth consultation and to provide its expertise.

Following you will find the amalgamated answers of its members to the SPC questionnaire. At the end of the document, you will find some general remarks from AEIP as well as a proposal for a legal framework for solidarity at European level.

Questionnaire

Field 1 – Description of social services,

1. Please indicate whether the description of the social services as provided by the Communication (see above under "scope") is appropriate and adequate, also with a view to social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law

Since all the supplementary social protection schemes are mentioned, besides mutual and occupational schemes, AEIP would favour to mention also the schemes managed by representatives of the social partners, the so-called "paritarian schemes". As such, based on social and collective guarantees, they create solidarities, reduce inequalities and correspond to the needs of salaried workers and their families.

Conform to the jurisprudence *Poucet et Pistre*, social services are determined by their compulsory nature and by the fact that are incorporated into social policy. Thus, the paritarian nature of the schemes that fulfil the same mission as statutory social security schemes in the sense of *Pistre et Poucet* should be taken account of, whereas voluntary statutory schemes have been excluded from the social field by the European Court of Justice (case *Coreva*).

Moreover, the Court in its judgements *Albany et Brentjens* reached a decision about the paritarian schemes that perform an economic activity in pursuing a mission of general interest, but at the same time they do not fall under competition law.

It is difficult to determine when activities can be qualified as being non economic. For example in employment pension schemes, the division between economic and non-economic services is not always easy to make. As in the case of Finnish statutory earnings related pensions, part of the operation of authorised pension institutions can be considered non-economic and other parts economic. Therefore, in the field of social services, if they are linked to the functioning of the national social security system, a case by case analysis is necessary in order to determine whether the principle of solidarity can exclude the application of community rules on competition.

2. If you consider that the description could be improved or other (type of) services should be added, please provide for concrete drafting suggestions
 - *basic compulsory social security schemes based on the principle of national solidarity that do not carry out economic activities.*

AEIP would suggest the following sentence:

"compulsory social security schemes based on the principle of national solidarity that do not carry out economic activities in the sense of the jurisprudence of the European Court of Justice."

- *other schemes, especially complementary social security schemes, organised in various ways (mutual or occupational organisations), covering the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability*

AEIP would suggest: “other schemes, especially complementary social security schemes, organised in various ways (mutual or paritarian), based on the principle of solidarity, covering the main risks of life, such as those linked to health, ageing, occupational accidents, unemployment, retirement and disability.”

Field 2 – Pertinence of the characteristics

3. Please indicate whether the characteristics identified by the Communication are pertinent to gauge the specific features of social services of general interest as compared to other services of general interest ?

The characteristics identified by the Communication are pertinent according to AEIP.

4. Please provide, if needed, for concrete drafting suggestions for the formulation of the characteristics as they are currently presented by the Communication.
5. Are there characteristics to be added ? Please provide for concrete drafting suggestions and examples of services concerned by these characteristics.

Without wanting to be exclusive, AEIP would like to remind that a characteristic of social services also consists in the effective representation of members and beneficiaries within the decisive bodies and/or the control of the organisations in charge of social services. The often compulsory participation to social protection schemes managed by paritarian institutions and the fact that they are based on solidarity should therefore constitute a criterion for the qualification as a social service of general interest. This compulsion is in fact the base of solidarity.

AEIP thinks that an attempt to formulate all-encompassing criteria for social services of general interest could prove to be futile. It is important that Member States have the competence to decide how SSGI's are to be organised.

6. Please provide as a maximum 3 relevant examples of social services representing one or more of the (additional) characteristics which could be taken as good example for the special nature. Please indicate which concrete element of the characteristics is clearly deducible from the example chosen.

The supplementary retirement schemes AGIRC and ARRCO constitute an example: as supplementary schemes, they are obligatory and Pay as you Go schemes according to law, but are managed exclusively by the representatives of employers and salaried workers to accomplish their mission of governing and managing the pensions of all the salaried workers of the private sector.

Another example are the so-called provident benefit societies that are also based on collective agreements and thus respond to a strong social necessity and complement the provisions of social security. They put into practice collective solidarity guaranteeing a person's integrity being affected by sickness, disability, invalidity and old age.

In Finland pension insurance companies, which are authorised to provide statutory earnings related pensions, compete with each other mainly with the level of service and contribution refunds, which are based on the investment returns of the funded part of contributions. The administration of this pension system, which is an integral

part of national social security, is decentralised to various pension institutions and this improves the efficiency of the system

7. How could these characteristics relate to the exclusion of specific social services from the scope of the Services Directive (Art. 2(2)(j) read together with the relevant Recital 27) as politically agreed on 29 May 2006 (Doc. 100003/06)

Field 3 – Use of characteristics by Member States

8. Please give a definition of what the "general interest" is in your country, and specify in which way (at national, regional or local level) it is defined or is intended to be defined in the future

An example of France:

The mission of general interest can be distinguished from the mission of public service applied to the statutory schemes placed under the tutelage of the state. The legislator has provided the supplementary schemes of AGIRC and ARRCO with a mission of general interest which means that the schemes are autonomously managed by social partners; thus these joined managed schemes have prerogatives and specific powers that are necessary for their functioning (compulsory character, privilege of collecting contributions).

9. How can the characteristics be used by the Member States, at national, regional or local level, when defining the particular general interest mission of a social service and determining the arrangement for its performance and organisation?
10. Have there been problems in the past with giving a concrete mandate to fulfil the particular general interest mission of a social service?

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Field 4 – Use of characteristics at EU level

11. Please indicate how (e.g. in a binding way or not), in your view, the organisational characteristics could/should be used at EU level (e.g. agreed checklist) in order to verify whether for a specific social service the applicable Community rules are respected:

According to AEIP, it is difficult to determine the organisational characteristics, since the needs and the relevance of coverage can vary. The European Court of Justice in its judgement "Poucet & Pistre" has made a distinction to the definition of an "enterprise" following Art. 85 and 86 of the EC treaty, the criteria it used were not depending on the supporting organisation. Thus a differentiation of social services according to organisational characteristics cannot be done easily, since according to the decision of the ECJ, enterprises are undertakings which, independent from their legal form or form of financing, carry out an economic activity. These criteria could be also fulfilled by social services, thus, for a clear distinction, it is necessary to have a close look at economic activities in terms of a solely maximisation of profit.

Field 5 – Experiences with the application of Community law

The Communication and its Annex provide for a further clarification on the conditions of application of Community rules and principles to social services in particular in the following fields:

- Public procurement
- Public-private partnerships
- Freedom to provide goods and services and freedom of establishment
- State Aid

12. Please indicate whether difficulties (may) still arise and if so in which legal areas and for which type of social services :

The major risk concerns the exemption of compulsory adherence due to competition rules. As far as the schemes AGIRC and ARRCO, but also the Finnish pension schemes are concerned, the application of the rules about the coordination of social security answers systematically the questions about the free services provision and the freedom of establishment. The rule of conflict of law established in the field of retirement based on the principle of equal treatment and the free movement of persons, describes a certain occupational retirement scheme; additional rules clarify the conditions of posting in which the original legislation can be maintained.

Generally speaking, AEIP would like to underline that the element to be taken into account to justify restriction of competition is not the compulsory participation itself, but the fact that through compulsory participation, it is possible to establish or to implement solidarity. Compulsory membership to social protection schemes managed by paritarian institutions and based on solidarity principles is justified as an essential social objective. In fact, a high level of solidarity especially without any risk-selection cannot be reached without this compulsion.

The ECJ admits that certain restrictions of competition are inherent in collective agreements between organisations representing employers and workers. However, the social policy objectives pursued by such agreements would be seriously undermined if management and labour were subject to Article 85(1) [now article 81(1)] of the Treaty when seeking jointly to adopt measures to improve conditions of work and employment¹.

This analysis firstly applied to Dutch pension funds should be extended to maternity, supplementary collective health, provident benefit and paid holiday schemes which fulfil the ECJ requirements.

Moreover, according to AEIP, social services should be safeguarded from overstraining through risk structure compensation regarding the freedom of establishment. (compare cipher 12 of the decision of the ECJ C-159/91 and C-160/91, Poucet & Pistre).

13. Please provide for concrete examples and experiences to illustrate these difficulties.

¹ Case C-67/96, Albany, §59.

14. Please give an indication on the debate in your country/organisation on how these difficulties should be addressed (e.g. clarification of the non-applicability of state aid rules to different social services of general interest)

Field 6 – Social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law

15. Please indicate whether the questions in the Fields 2, 3 and 4 could also have significance with regard to social security schemes responding to the criteria deriving from the *Poucet and Pistre* case law.

The criteria developed by the ECJ fit many features of for example the Finnish statutory pension scheme. But there remains certain uncertainty e.g. in regard to what extent are these criteria to be considered cumulating or alternative.

16. Please indicate whether there is a need for further and specific clarification on the application of Community rules as enumerated in Field 5 with regard to these social security schemes.

AEIP would suggest indicating the exclusive character of the application of the regulations about social security coordination concerning the principles of free establishment and free provision of services.

Field 7 – Future steps at Community level

17. Which expectations do you have concerning future steps at Community level?₄

AEIP thinks that there is a need for clarifying the definitions of economic and non economic activities regarding all the rules that are separately planned in the context of a functional vision: such as state aid, rules of public procurement, freedom of establishment and the free provision of services which do not necessarily have the same scope.

Non economic services of general interest normally do not have a profit making target. In distinguishing from economic services of general interest, it does not matter whether in a certain field, private and/or profit oriented actors/markets do exist or whether any remuneration is being provided. AEIP would favour to envisage the application of a new definition of an “undertaking” in the EC treaty.

As the non economic services of general interest do not fall under the scope of the competition and internal market rules, these rules only apply to the economic services of general interest, depending on the existence of national regulations for securing the general interest defined at national level are observed.

AEIP would like to underline that any EU level binding legal definitions of social services of general interest need a prior assessment by the stakeholders and the Member States.

18. In case further steps should be considered, what could be the content, but also the advantages or disadvantages of these, including in particular intensified exchange of information, open method of co-ordination, Commission’s Communications but also a Framework Directive for social services ?

19. Please indicate the expectations with regard to the monitoring and dialogue procedure in the form of biennial reports announced by the Communication.

General Remarks

AEIP would like to underline that it is difficult to make a distinction between social services of general interest and services of general interest, since the Member States define themselves the general interest of their citizens. Thus AEIP favours a holistic approach to services of general interest including social and health services of general interest.

In order to safeguard the social protection schemes that are based on solidarity, AEIP proposes following a legal framework that would codify the judgements of the European Court of Justice in this area:

AEIP Proposal for a legal framework on “solidarity”

Solidarity and competition

The notion of solidarity is by its nature not in conformity with a reliance on market forces. If solidarity has a practical value, market forces would dictate that those who are on the giving side would display free rider behaviour: they would try to escape from the solidarity, in order to re-enter when they are on the receiving side. Free rider behaviour can only be overcome by a very strong promise of future benefits, which is constantly undermined by a liquidity preference, or by government regulation. Such regulation will, by its nature, interfere with market forces and therefore be at odds with competition regulation. This note sets out an economic framework in which the tension between solidarity and market forces is clarified and suggests practical ways of dealing with this issue on the basis of jurisprudence from the European Court of Justice.

Economic framework

In economic theory, market forces are seen as in general the most efficient way to organize trade. A generally accepted exception may be the “infant industry” argument. This argument is a temporary one in any case and not relevant for the purpose of this document. However, economic theory also teaches the notion of market failure: circumstances in which market forces will always lead to a sub-optimal solution. This notion goes hand in hand with that of the “second best solution”, which is government regulation. Market failure may be due to imperfect market situations, but also to:

- *Large external effects. If the good produced has great use for a group, but small use for each individual within the group it may not be produced at all with market forces. Such is the case for instance with the military. Often, such good can best be produced by the government.*
- *Inability to share risk efficiently, combined with significant external effects. In principle, risk sharing may be obtained by normal commercial insurance. However, if insurance contracts contain too much solidarity, there will be reverse selection: (potential) low risk clients will combine their risk with other low risk clients and refuse the risk of high risk clients. The level of solidarity obtained by market forces is therefore limited and*

may be less than optimal. This means that a better result may be obtained by not relying on market forces.

In addition, there is generally recognized value in having and maintaining a social policy. A central part of social policy refers to labour conditions. This is an issue in itself that is wider than the scope of this note. However, it is worth noting that in many countries, social partners (representatives of employers and employees) play a large role in this field.

Examples of the above may be found in the social sector. Normally, countries operate a compulsory national old age pension system (covered by regulation 1408/71) based on Pay-As-You-Go in order to provide a pension to all its citizens². This system has large external effects. If it were not national and compulsory, there could well be moral hazard: citizens could not save at all for their pensions, trusting that the government will not allow them to starve or live in abject poverty. Therefore, the system must be compulsory in order to work and a basic pension that covers all citizens cannot be produced with market forces alone. For similar reasons, basic public health schemes that cover all citizens can only be produced with compulsory participation.

Collective occupational pension funds (Institutions for Occupational Retirement Provision or IORP), collective health insurance and provident schemes³ share risk in a way that would not be possible by market forces because they "use" solidarity. New entrants are admitted independent of age, sex or health.

Many pension funds will cover biometrical risk, e.g. providing for continued construction of the pension claim in case of invalidity

In the same way, provident societies offer, through collective contracts, a maintenance of health care cover in the case of injury or disability.

In order to implement the level of solidarity, compulsory participation represents obviously a very important tool. This, in turn makes it possible for the fund to achieve superior returns on capital invested, not only because its liquidity requirements are lower if there are no large unforeseen departures of participants, but also because it can maintain a longer investment horizon. Apart from reduced risk and enhanced returns, other external effects include a large, stable mass of savings that help develop capital markets and capital markets know-how and dampen capital market volatility.

Social policy reasons may explain the reasons for compulsory occupational pension funds, occupational maternity and health insurance schemes and paid holiday schemes. They may be the result of an agreement between social partners to provide a useful social service. By acting as a group, social partners' action may be seen as restricting choices within the group. However, social policy aims at addressing real issues that are difficult, if not impossible to solve with market forces and on an individual level while still producing significant external effects in the field of social policy.

Thus, compulsion can be accepted (and it has been accepted) by the European Court of Justice because it can lead to a higher level of solidarity and only if this condition has been met.

² It is of course quite possible to go beyond a basic pension in a national system.

³ Covering against occupational injury, disability and death risks.

Legal framework

The scope of article 81

Article 81.1 EC contains a number of general prohibitions aimed at promoting free competition [article 81.1(a) to (e)] and an escape clause in article 81.3. Article 82 contains further prohibited actions without an escape clause. This shows that the Treaty allows certain exceptions to its general rules.

Article 83 provides for further regulation. Of particular interest for this note is article 83(d), which calls for regulations to define, if need be, in the various branches of the economy, the scope of the provisions of Articles 81 and 82. Article 85 charges the Commission with application of the competition rules. Article 86 extends the scope of the treaty to public undertakings, modified by article 86.3(c), which uses the same wording as article 83(d). All articles mentioned are in the chapter entitled "Rules applying to undertakings". If an institution is not an undertaking, the rules in this chapter can a fortiori not apply to it. It is therefore useful to look into the definition of an undertaking.

What is an undertaking?

The European Court of Justice has repeatedly and consistently held that "The concept of an undertaking for the purposes of Article 81 et seq. of the Treaty encompasses every entity engaged in an economic activity, regardless of the legal status of the entity and the way in which it is financed⁴".

Neither the fact that the institution is non-profit-making or subject to investment restrictions, nor the fact that it pursues a social objective, organizes solidarity or is governed by social partners is sufficient to deprive it of its status as an undertaking. However, the ECJ has also held that the concept of an undertaking does not include organizations involved in the management of the public social security system, which fulfil an exclusively social function and perform an activity based on the principle of national solidarity which is entirely non-profit-making⁵. A similar conclusion may be drawn for public maternity and health schemes⁶. The Court has found that to be the case for sickness funds. They are not in competition, but merely apply the law and cannot influence the amount of the contributions, the use of assets and the fixing of the level of benefits. Their activity, based on the principle of national solidarity, is entirely non-profit-making and the benefits paid are statutory benefits bearing no relation to the amount of the contributions.

This may be reformulated as institutions completely covered by regulation 1408/71 as well as public maternity and health schemes are not undertakings and therefore not covered by the rules of articles 81-86EC.

This begs the question of whether application of article 81 for other organizations prevents rules for compulsory participation.

Compulsory participation

The ECJ has justified compulsory participation as part of social policy⁷:

⁴ Case C-41/90 Hoefner v Elser , Case C-67/96, C-115 to 117/97, C-219/97 Albany et. al., Case C-159 to 160/91 Poucet

⁵ Case C-159 to 160/91 Poucet

⁶ Case C-159 to 160/91 Poucet, Case C-264, 306, 354 and 355/01 AOK

⁷ The court has not used the argument of market failure and second best solutions. However, as articles 81-86EC are clearly trying to promote economic efficiency, this argument could be a useful addition.

“The exclusive right of a sectoral pension fund to manage supplementary pensions in a given sector and the resultant restriction of competition may be justified under Article 90(2) [now article 86(2)] of the Treaty as a measure necessary for the performance of a particular social task of general interest with which that fund has been charged⁸”.

It has rejected the notion that social policy undermines the effectiveness of the EU competition policy (in particular Articles 3(g), Article 10 and Article 85 EC)⁹, noting that Article 2 EC provides that a particular task of the Community is ‘to promote throughout the Community a harmonious and balanced development of economic activities¹⁰’ and ‘a high level of employment and of social protection’. As compulsory institutions may exist in the framework of social policy, governments may give them such a legal monopoly in the framework of article 86(2) as a measure necessary for the performance of a particular social task of general interest with which that institution has been entrusted¹¹.

Therefore the element to be taken into account to justify restriction of competition is not the compulsory participation itself, but the fact that through compulsory participation, it is possible to establish or to implement solidarity.

Compulsory membership to such schemes is justified as an essential social objective. In fact, a high level of solidarity especially without any risk-selection cannot be reached without this compulsion.

The court admits that certain restrictions of competition are inherent in collective agreements between organisations representing employers and workers. However, the social policy objectives pursued by such agreements would be seriously undermined if management and labour were subject to Article 85(1) [now article 81(1)] of the Treaty when seeking jointly to adopt measures to improve conditions of work and employment¹².

Basing itself on

- *Article 118 of the EC Treaty (Articles 117 to 120 of the EC Treaty have been replaced by Articles 136 EC to 143 EC), which provides that the Commission is to promote close cooperation between Member States in the social field, particularly in matters relating to the right of association and collective bargaining between employers and workers, and*
- *Article 118b of the EC Treaty (Articles 117 to 120 of the EC Treaty having been replaced by Articles 136 EC to 143 EC), which adds that the Commission is to endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement,*

the ECJ concludes:

It therefore follows from an interpretation of the provisions of the Treaty as a whole which is both effective and consistent that agreements concluded in the context of collective negotiations between management and labour in pursuit of such objectives must, by virtue of their nature and purpose, be regarded as falling outside the scope of Article 85(1) [now article 81] of the Treaty¹³.

⁸ Case C-67/96, Albany, §98

⁹ Case C-67/96, C-115 to 117/97, C-219/97 Albany et. al.

¹⁰ By referring to this quote, that the ECJ comes close to recognizing that legal monopolies may be economically efficient. The court has also recognized that without a legal monopoly, pension schemes would work less efficiently in Case C-67/96, C-115 to 117/97, C-219/97 Albany et. al. 108

¹¹ Case C-67/96, C-115 to 117/97, C-219/97 Albany et. al.

¹² Case C-67/96, Albany, §59.

¹³ Case C-67/96, Albany, §60; C-115 to 117/97, Brentjens, §57; C-219/97, Bokken, §47.

This analysis can also be applied to maternity, supplementary collective health, provident benefit and paid holiday schemes.

In the case of supplementary collective health and provident benefit schemes, the collective agreements which set up the scheme fulfil the ECJ requirements¹⁴:

- by virtue of their nature: they are agreements between organisations representing employers and workers ;
- by virtue of their purpose: they contribute directly to improving one of the working conditions.

In the case of paid holiday schemes, this means that:

- the posted workers do not enjoy an essentially similar level of protection under the law of the Member State where their employer is established, so that the application of the national rules of the Member State of destination confers a genuine benefit on the workers concerned, which significantly adds to their social protection, and
- the application of those rules by the Member State of destination is proportionate to the public interest objective pursued.

This may be reformulated as: a compulsory IORP, collective health insurance and provident scheme, or paid holiday scheme that is established by social partners and is entrusted with a monopoly is not covered by article 81(1) EC in so far as the application of this article obstructs the performance, in law or in fact, of the tasks assigned to them.

Abuse of a dominant position

A pension fund or a provident institution which has a legal monopoly in a Member State must be regarded as having a dominant position. However, the mere creation of a dominant position by a Member State through the grant of exclusive rights within the meaning of Article 82 EC is not in itself incompatible with Article 86 of the Treaty.

For ECJ, “the removal of the exclusive right conferred on the Fund might make it impossible for it to perform the tasks of general economic interest entrusted to it under economically acceptable conditions and threaten its financial equilibrium”. In fact, “if the exclusive right of the fund to manage the supplementary pension scheme for all workers in a given sector were removed, undertakings with young employees in good health engaged in non-dangerous activities would seek more advantageous insurance terms from private insurers. The progressive departure of 'good' risks would leave the sectoral pension fund with responsibility for an increasing share of 'bad' risks”¹⁵.

A Member State will be in breach of the prohibitions laid down by those two provisions only if the undertaking in question, merely by exercising the exclusive rights granted to it, is led to abuse its dominant position or where such rights can create a situation in which that undertaking is led to commit such abuses. There is an abusive practice contrary to Article 82 of the Treaty, in particular, where a Member State grants to an undertaking an exclusive right to carry on certain activities and creates a situation in which the undertaking is manifestly not in a position to satisfy the demand prevailing on the market for activities of that kind¹⁶.

¹⁴ Case C-115 to 117/97, *Brentjens*, §59 and §60

¹⁵ Case C-115 to 117/97, *Brentjens*, § 111 and § 108

¹⁶ Case C-180-184/98 *Pavlov*

Subcontracting part or all of the tasks assigned to an IORP with compulsory membership, so that members must use the services of that subcontractor is not an abuse of a dominant position¹⁷.

This could be reformulated as: **an IORP, collective health insurance and provident scheme, or paid holiday scheme must be capable of performing the tasks assigned to it, either by itself or through subcontracting.**

¹⁷ Case C-222/98 Van der Woude

Proposal: option for an exemption to competition rules

The reformulations proposed above

- **institutions completely covered by regulation 1408/71 as well as public maternity and health schemes, fulfilling an exclusively social function and performing an activity based on the principle of national solidarity which is normally non-profit-making and where the benefits paid are statutory, bearing no relation to the amount of contribution paid, are not undertakings and therefore not covered by the rules of articles 81-86EC.**
- **an IORP, collective health insurance and provident scheme, or paid holiday scheme that is established by social partners and is entrusted with a monopoly is not covered by article 81(1) EC in so far as the application of this article obstructs the performance, in law or in fact, of the tasks legitimately assigned to them with special regards to the level of solidarity that the scheme realises. In this framework, compulsory participation should be an essential condition.**
- **an IORP, collective health insurance and provident scheme, or paid holiday scheme must be capable of performing the tasks assigned to it, either by itself or through subcontracting.**

could be the core of an option for an exemption from the Commission (possibly including language on the economic efficiency of compulsory participation in this sector) on the interpretation of articles 81-86 EC for the social sector (consisting of state, mandatory and professional pension funds, collective health insurance, provident schemes and paid holiday schemes). This would have the following advantages:

- It would be in line with article 83.1 and 83.2(c) EC.
- It would codify jurisprudence, now scattered over a significant number of cases.
- It would generalize and clarify this jurisprudence.
- It would take decisions in this matter from the legal to the administrative realm, thereby promoting legal uniformity as well as lightening ECJ case law.
- It would stabilize the current situation, helping social institutions to perform the tasks assigned to them.
- It would therefore be in the spirit and to the letter of article 2 EC.

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