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Response to the public consultation on the implementation of the European Pillar of Social Rights

Introduction

ABV (Arbeitsgemeinschaft berufsständischer Versorgungseinrichtungen e. V.) is the umbrella organisation of the German pension schemes for liberal professions such as physicians, pharmacists, dentists, veterinaries, architects, notaries, lawyers, tax consultants, chartered accountants, as well as psychotherapists and engineers.

In general, we broadly support the effort by the European Commission to further implement the European Pillar of Social Rights. Nonetheless, there are a number of issues that we would like to highlight. The topics are not necessarily specific to any Principle of the European Pillar, but rather overarching and crosscutting in nature.

Principle of Subsidiarity

The text of the Pillar of social rights mentions various times that the principle of subsidiarity must be respected, therefore we urge the European Commission to carefully consider issues related to subsidiarity in the next steps of the implementation process. In this regard, we point out that also by setting rules in form of directives the principle of subsidiarity has to be taken very seriously. Even framework rules must not be too restrictive, but leave enough space for individual needs of national social security institutions.

Keeping alive EESSI as Basis for Digitisation in Social Security Sector

The European Commission has decided to stop the further development and maintenance of the Reference Implementation for a National Application (RINA) software, in use by many competent institutions to access EESSI (European Exchange of Social Security Information), by mid-2021. This decision comes at a crucial phase - after years of development and while the first steps of the implementation process for EESSI are still ongoing. This move leaves especially smaller institutions with low case volumes, such as ABV and its member organisations, in a difficult position, since the independent development of a RINA-type software appears to be disproportionately expensive and there was the legitimate expectation of continuing to use RINA as open source application.

With a 'cut-loose' handover the European Commission jeopardises the whole EESSI project in a crucial phase of its implementation, putting into question whether EESSI will be accessible for all competent institutions within the Member States – especially smaller ones with lower budgets. RINA has enabled Member States to ensure that no institution is excluded and EESSI can be quickly implemented across the whole social security system. If some institutions are left behind or end up excluded from the process, no real progress in the digitalisation of the sector of cross-border social security will be possible and the already implemented processes may fail.

It should be also noted that Articles 78 and 79 of Regulation (EC) No 883/2004 instruct the European Commission to support and fund the project of electronic data exchange in the field of social security. Furthermore, Article 153 TFEU clearly indicates that the financial equilibrium of the social security systems must not be significantly affected by EU measures. Therefore, a 'cut-loose' handover might also raise serious legal concerns.

A reconsideration of the timeframe for the RINA Handover would be most welcome, in order to have enough time to thoroughly consider all the risks and additional costs that the handover will inevitably cause to institutions.

Against this background and in line with the ESIP Statement on RINA Handover from 26th November 2020, we therefore urge the European Commission to rethink its approach to the so-called "RINA Handover" and ensure at least a minimum framework of support for Member States. This should include continuing to make available and update RINA, even in a reduced form, following the "RINA as a service" approach proposed by some Members of the RINA Handover working group. Furthermore, appropriate funding for competent Member States that face disproportionately high implementation costs should be made available. We call upon the European Commission to take steps in this direction while the process is still ongoing and commit to a sustainable solution by the end of 2020.

Social Security Coordination

We encourage the European Commission to pursue its efforts in reaching a compromise solution on modernised rules for social security coordination. This should include the exemption of short-term stays from the request of A1 documents, in order to reduce bureaucratic burden on competent institutions like ABV. For reference, ABV has seen a substantial increase in requests for A1 documents in the last 2 years, which has put an unjustified financial and organisational strain on the organisation. We would welcome a lean and streamlined approach to A1, which strikes the right balance between ensuring citizen's rights and allowing for effective control by Member States, without requiring unnecessary bureaucratic procedures. Digitalisation can be an element of simplification, but should not be seen as a comprehensive solution to the problem, since electronic procedures still constitute bureaucratic burden.

Single Digital Gateway

We call on the European Commission to support Member States and national social security institutions in digitising their proceedings. Furthermore, we like to point out that data protection law as well as constitutional privacy law at European and Member State level must be respected. This has to be taken into account when thinking about centralising strategies like a European Social Security Number or comprehensive databases containing social security information.

Access to Social Protection for Workers and the Self-employed

We support the European Commission's efforts to support Member States and monitor the implementation of the Council Recommendation on access to social protection, but we stress that the impact of new schemes in line with the recommendation on existing social protection schemes, especially those dedicated to liberal professions, should be carefully considered. Efforts to offer a higher level of social protection to workers and the self-employed should not jeopardize existing social protection rights or endanger the sustainability of existing systems.