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TABLE OF CONTENTS

F O R E W O R D

In 1959, the High Authority of the ECSC published a study of the supplementary social security schemes in force in the sectors under its jurisdiction, that is to say the coalmining and iron-and-steelmaking industries. In 1960, the EEC Commission decided to undertake research in the same field, but with the aim of identifying the "extra-legal" social security benefits enjoyed by employees as a whole.

The present study is the result both of investigations undertaken with the help of employers' associations and trade unions in certain sectors of industry, and of information contained in the documentation available in the six countries.

Despite gaps caused by the difficulty of grasping a complex, changing and badly documented series of initiatives, this study is a first attempt to examine, from a European standpoint, those outlying areas of social security known as private group protection.

The desirability of such a review is due to the need for gradually building up the most accurate possible picture of the social position in the Community countries, which is a basic condition for any joint action.

At a less general level, this study has been made especially necessary because of the problems raised by the free movement of workers, and the administrative committee for migrant workers' social security has several times expressed the hope that it would be undertaken.

INTRODUCTION

1. The Rome Treaty and social security

The provisions of the Treaty of Rome concerning social security are of two kinds. On the one hand, there are the social security measures required by the establishment of the free movement of workers (Art. 51), and, on the other, the measures forming part of the wider prospect of a Community social policy, which is dealt with in a special chapter of the Treaty. This includes Article 117, which speaks of the need to "promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained", and Article 118, which states that the Commission shall be responsible for ensuring close cooperation between Member States, especially as regards social security.

In the first case, the aim is to guarantee workers who move from one Community country to another complete protection, by means of the "coordination"[1] of the various social security regulations applicable within the six countries.

In the second case, the expression generally used is that of the "harmonization" of social security schemes. This notion is open to various interpretations, but it at least signifies that there must be some convergence, by gradual stages, of the rather different schemes in force in the Member States. This convergence might be reached simultaneously at the level of the details of regulations by adopting certain identical provisions (e.g. a single list of occupational diseases for which compensation is payable, or the conditions under which various benefits are granted) and at the overall level, by determining a level of social protection which would be appreciably the same throughout the EEC.

As regards coordination, Community regulations were adopted in 1959. Regulations Nos. 3 and 4, on the social security of migrant workers, guarantee

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[1] The word "coordination" is used here in the traditional sense in which it is used in international social security legislation. This is not the meaning of the term as used in the provisions of the Rome Treaty, where it implies the modification of national legislations with a view to their standardization.

wage-earners equal treatment; the accumulation of periods of insurance and employment in several States of the Community, both as regards the right to benefits and the calculation of their amount; and the right to expatriate benefits. Since 1959, various improvements and additions have been made to the initial regulations, especially by the adoption of special provisions for frontier-dwellers and seasonal workers. A general revision of the regulations is under way which should lead to its improvement and simplification in the light of the experience gained during the first six years of its application.

At the same time as it was attempting to ensure "coordination", the Commission was called upon to assume its responsibilities under Articles 117 and 118. Before the main lines of a standardization policy could be laid down, a comparison of the various national situations had to be made possible, and monographs,[1] comparative tables[2] and general studies[3] were published for this purpose.

After this, a general consultation of the circles most concerned with the progress of social security was organized on the basis of these comparative documents. This was the European social security conference of December 1962, attended by representatives of employers' organizations and trade unions, directors of social security schemes and other experts. Government representatives were present as observers.[4]

As a result of the views put forward at this meeting, the Commission services drew up a first standardization programme, containing general long-term

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[1] These monographs, intended to supplement those published by the High Authority of the ECSC, which deal with the general social security system and special schemes for coalmines, were drawn up by the EEC services to cover other social security schemes.

[2] Comparative tables of the social security schemes in operation in the Member States of the European Communities (3rd edition, July 1964).

[3] "Social Policy" series, No. 3: The present social security position in the EEC countries. No. 4: Comparative study of social security benefits in EEC countries. No. 5: The financing of social security in the EEC countries.

[4] The work of the conference was concerned with three main subjects: the field of application of social security; financing; and benefits. See "Acts of the European Social Security Conference".

guidelines and an immediate programme confined to a few detailed items. This was submitted to Member Governments, and it is in cooperation with them, and with employers' organizations and trade unions, that the Commission is now trying to bring about standardization in those fields where agreement was reached.

2. Consideration given to supplementary social security schemes

Attention was initially concentrated on social security legislation, from the standpoints of both "coordination" and "standardization". However, it soon became apparent that a proper appreciation of social realities called for the abandonment of a highly formal concept of social security in favour of a view which would take account not only of statutory guarantees, but also supplementary advantages of the same type, irrespective of their legal basis. In short, the changeable and ill-defined area of "supplementary schemes" would have to be considered.

With regard to coordination, there were some grounds for wondering whether the measures adopted in the field of social security legislation did not leave untouched certain obstacles to free movement arising from the existence of supplementary schemes. If this were so, then there could be no doubt that the principles laid down in Article 51 of the Rome Treaty called for the removal of these obstacles.

The administrative Committee for the social security of migrant workers[1] was apprised of this problem when Regulations Nos. 3 and 4 were being revised. Without prejudice to the possibility of eventually adopting a solution similar to that of Regulations Nos. 3 and 4, the Committee expressed the hope that a study of the importance, nature and characteristics of supplementary schemes would be made.

Such a study was equally necessary if there was to be an attempt to standardize social security schemes, as this could not be confined to statutory provisions alone, but would be one of the methods of attaining a gradual

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[1] A Committee consisting of the Directors-General of Social Security from the six countries, whose task is to interpret, apply and improve Community regulations in this field.

improvement and a certain equivalence of levels of social protection. It was therefore necessary to take account of the factors which, in each country, determine the true level of protection, particularly the supplementary schemes.

The Commission decided to make a study of this kind in 1960. As the documentation available in the different countries was insufficient, employers' and workers' organizations were invited to assist in the task. In order to limit the field of enquiry and enable accurate and comparable data to be collected, the study was confined to six branches of industry.[1] Employers and workers agreed to draft a report for each of these branches, corresponding as closely as possible to an outline prepared by the Commission.

This enquiry did not produce the expected results. In many cases, the professional organizations themselves were unable to provide full details of the schemes existing within companies in their sector, and could only provide the Commission with fragmentary information, making any comparison very difficult.

Consequently, the initial project of drafting a series of comparable reports for each sector was abandoned, with the exception of the building trade. The fuller information provided and the special aspects due to protection against wet-time unemployment led the Commission to decide to publish a special report on this sector in 1963.[2]

As it had proved impossible to give a complete list of the supplementary schemes in force in the various economic sectors, it seemed appropriate to compile the information available, and to attempt to present a picture, for each country, of this marginal area of social security.

3. Definition of supplementary schemes

The notion of a supplementary social security scheme is an ill-defined one, and this is no doubt due to the fact that the notion of social security itself is capable of indefinite extension. The term "supplementary scheme" has no exact

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[1] Building, textiles, printing, chemicals, paper, motor-car manufacture.

[2] The main lines of this report are contained in an Annex to the present document.

legal meaning. This uncertainly becomes confusion, at international level, because the term used in each country covers different facts.

However, it does not appear appropriate to formulate a theoretical definition at the outset of this study, as the Communities are not concerned here with defining a legal theory of supplementary schemes. The Community services have merely attempted, in the course of this preliminary work, to lay down a set of criteria for providing a practical boundary to the "area" of supplementary schemes.

As pointed out earlier, it is necessary, with regard both to coordination and standardization, to be able to evaluate the range of guarantees which workers enjoy when faced with one of the risks usually covered by social security, i.e. sickness, maternity, disablement, old age, death, unemployment, industrial accident, occupational disease and family benefits. The question is whether, in these circumstances, workers enjoy rights other than those conferred by social security legislation.

This area of supplementary schemes is limited in two ways:

(a) As regards the object of the guarantee, by the nine risks mentioned above, which are covered by convention 102 of the International Labour Organization;

(b) As regards the nature of the guarantee, by the fact that it must constitute a right. This leaves aside any purely ex gratia assistance, be it forthcoming under the social activities programmes of employers, the operations of aid organizations or even from certain social security funds.

A third limitation is set by the difference between group and individual situations. Within the context of the Community's social policy, one can only take account of group situations, leaving individual initiative aside. Furthermore, it is clear that the notion of a "scheme", however vague it may appear, can apply only to a given group, so that no account will be taken of rights resulting from a private insurance scheme, but only of those which depend upon membership of a group (wage-earner in a company, member of a profession, member of a socio-professional category such as management). A fourth criterion also exists, i.e. the supplementary benefits must be partly or wholly paid for by the employer.

This study is only concerned with supplementary social security schemes for wage-earners, and does not deal with schemes for civil servants, public officials or members of the liberal professions, which are generally statutory.

Part One of this report is an attempt to determine, as far as possible the importance and general characteristics of supplementary schemes in the different countries.

Part Two describes the most important aspect of these schemes, i.e. supplementary pension schemes.

Part Three deals with available information about supplementary benefits for other risks, such as unemployment.

PART ONE

IMPORTANCE OF SUPPLEMENTARY SCHEMES

This first part sets out to collect data in reply to the first question which comes quite naturally to mind: what is the respective importance of supplementary social security schemes in the six countries of the Community?

Only a systematic enquiry would have made it possible to provide an exact answer to this question, based on complete figures showing the number of workers covered by such schemes, the cost of the supplementary benefits and their effect on the level of social protection against the various risks involved.

Although the information at the Commission's disposal does not make it possible to establish a statistical comparison of the situation in each of the six countries with regard to these points, satisfactory approximations can be reached by making a general inventory of what has been done in each country and by exploiting, in the results of enquiries that have been made into labour costs,[1] the data on non-statutory social security costs (agreed costs (i.e. those resulting from a collective bargaining agreement) and those borne voluntarily by companies).

This way of proceeding gives rise to a plan which does not correspond to the logical development of the subject, but which is dictated by the need to make the best use of the incomplete and dispersed information available without distorting the facts by an over-ambitious use of them.

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[1] See below, Part One, Chapter II.

CHAPTER I

The schemes

A first attempt to compile a list of schemes can be made by examining the regulations which lay down a supplementary system (or provide for the obligation to institute one) in a profession as a whole, in a sector of industry or in the case of all the workers in a given category, either at national or regional level.

These regulations may take the form of collective bargaining agreements, and may or may not be included within legal provisions, made statutory by the public authorities (extension decree in France, royal decree in Belgium).

This list of what we may call "the principal supplementary schemes" will leave out of account schemes established at the level of a company or group of companies. This type of "scheme" could well be ignored in a study at the level of Europe as a whole, were it an isolated and exceptional phenomena; however, the case is different where these schemes are generalized, which seems to be the case in one country at least, as we shall see later when dealing with Germany.

1. Belgium

In Belgium, supplementary schemes, whether of a national or regional nature, appear to be relatively rare, and, as can be seen from Table 1, mainly concerned with unemployment benefit.

It was, in fact, the desire to improve income guarantees for workers in sectors where continuity of employment was especially uncertain which led to the establishment of the first schemes, immediately after the war. These schemes were intended to foster "the adaptation, in a given sphere of activity, of the uniform benefit standards applied by the general social security system". They were established through collective bargaining agreements signed within the

framework of joint national or regional commissions,[1] agreements which can be made mandatory by a royal decree for the whole sector concerned. These schemes, known as "existence security" are sometimes accompanied by a compensation fund, also known as an "existence security fund".[2] In some cases, they cover unemployment in general, whilst in others they merely cover some forms of it (partial, accidental or intermittent), depending upon whether the sector concerned is subject to unemployment due to technological causes or to seasonal fluctuations. From the outset, the notion of "existence security" went beyond the limits of protection against unemployment, as may be seen from the creation, in 1947, of a "scheme" for the textile industry in the Verviers district. However, these "incursions" into other branches of social security, and even beyond, into social service, have so far remained isolated phenomena. It will be noted that supplementary pension schemes only exist in five trades: printing, cement, gas and electricity, petroleum products and machinery (in the Charleroi area).

This inventory is necessarily incomplete, because, side by side with these easily-listed schemes, there exist supplementary arrangements at company level, which have been negotiated by collective bargaining or instituted at the employer's own initiative. No list of these has been compiled so far, but although these schemes are often met with, they cannot be described as widespread. We shall see in Chapter II what light can be shed on this question by an analysis of labour-cost studies.

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[1] The joint national (and in some cases regional) commissions were formed by the Minister of Labour at the request of, or after consultation with, the professional organizations concerned. Their status was laid down in the decree-law of 9.6.1945. They consist of an equal number of managing directors and workers, appointed by the King at the suggestion of representative professional organizations: see J. Fafchamps: "Les conventions collectives en Belgique", Brussels 1961, p. 28 et seq.

[2] It must however be noted that, although joint commissions are the only authorities entitled to establish a scheme under the law on the existence security fund (law of 7.1.1958), supplementary social security benefits can also be envisaged within collective bargaining agreements concluded independently of the commissions, and covering either a single company or a group of companies.

TABLE 1

Principal supplementary schemes, by trades

(1964)

Trade	Field of application	Risk[1] covered by supplementary scheme
	A. Trades to which "existence security funds" apply	
Building	national	unemployment
Logging and pit-props	national	unemployment
Sawmilling	national	unemployment
Printing, graphic arts and newspapers	national	old age
Textiles	regional (Verviers district)	family benefits
Linen-making	national	unemployment
Ports	local (Antwerp-Ostend-Ghent-Brussels)	unemployment
Food industry	national	unemployment
Hosiery	national	unemployment
	B. Supplementary schemes functioning without an "existence security fund"	
Cement	national	old age, death, unemployment, sickness
Cement conglomerates	national	unemployment
Looking-glass manufacture	national	unemployment
Food industry (biscuits, pastry, rusks, gingerbread)	national	unemployment
Leatherwork	national	unemployment
Tobacco	national	unemployment
Horticulture	national	unemployment
Gas and electricity	national	old age, death
Petroleum products	national	old age, death, sickness
Iron and steel	regional (Charleroi coalfield)	old age, death
Machinery	regional (Charleroi coalfield)	old age, death
Woodworking	1 national and several regional schemes for certain branches of this industry	unemployment
Tannery	1 national scheme 1 regional scheme and 2 schemes confined to 1 sector	unemployment
Quarrying	1 national scheme (marble) 6 regional schemes	unemployment
Brickworks	7 local schemes	unemployment (sickness: 2 schemes)
Trade in wood	1 national scheme	unemployment
Papier and cardboard processing	1 national scheme	unemployment

[1] The table only shows risks which fall into one of the categories normally covered by social security. In many cases, these schemes also cover other benefits, such as separation grants and bonuses of various kinds. Some schemes also include compensation mechanisms guaranteeing a fixed weekly wage.

2. Germany

It is not possible to make a list of German supplementary schemes by simply enumerating the principal ones because, on the basis of available information, "trade" schemes established by collective bargaining are the exception, in the private sector at least.[1] However, an example can be quoted: the building industry has a supplementary pension scheme established by collective bargaining at national level.[2]

These facts should not, however, lead us to conclude that supplementary "benefits" are in any way the exception in Germany.

If we are to judge by the cost of supplementary schemes to employers, Germany takes second place among the Six, after the Netherlands and considerably ahead of France.[3] As a general rule, these benefits are not the result of collective bargaining, but of a unilateral decision by the employer, as part of the "company's social policy". Consequently, there is a wide variety of formulae, which makes it difficult to compile a systematic list. It is especially hard to determine the exact number of beneficiaries of these schemes, and what percentage of wage-earners they represent. According to a study of salary structures in trade and industry, made in 1957 by the Federal office of statistics (Statistiches Bundesamt), it appears that 36% of companies employing 20 persons or more have at least a supplementary pension scheme. The labour force employed by these companies corresponds to at least 90% of that for the sector concerned, but this does not mean that 90% of the wage-earners are covered by a supplementary pension scheme, because such a scheme very often affects only one category of personnel, e.g. office workers or management.

3. France

The situation in France is so different from that in Germany that we may even speak of an "opposition" between the formulae used in the two countries.

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1 See Heismann: "Die betriebliche Ruhegeldverpflichtungen", Cologne 1958, p. 41.

2 See "Les régimes complémentaires de sécurité sociale dans l'industrie du bâtiment", EEC 1963, Annex II.

3 See below, Part One, Chapter II, at least for the period prior to 1962.

Whereas in Germany supplementary benefits are the result of a host of individual initiatives taken at company level, outside the sphere of collective bargaining and of institutions in general, in France the guarantees provided by such benefits have been sought collectively on the basis of negotiations between workers' and employers' organizations, according to a process that has led to the generalization and institutionalization of the schemes in the two important fields of pensions and unemployment benefit. This fact makes it much easier to deal with France when examining the supplementary scheme position.

(1) Without going into too much detail, it may be useful to recall the evolution of the situation. The starting-point is situated before the war when, as a result of the Matignon agreements (1936) collective bargaining took place on a large scale, leading, for the first time, to an examination of the pensions problem.[1] By introducing the notion of pensions into collective bargaining agreements, the spirit of the latter was changed. The idea of the employer's generosity was diminished to the point of non-existence. Henceforward, pensions schemes would result from an agreement freely entered into by the parties, were it to be an individual contract or, more usually, a collective agreement. Workers' participation was to become increasingly large with regard to the sums involved, and this, in the course of the rapid evolution of the situation, would lead to the joint management of pension funds".[2] The schemes developed at this time were not really "supplementary", because they were virtually limited to management and experts, who were not covered by social insurance. They were optional in character.[3]

The compulsory inclusion of management in social security schemes by the Order of 4 October 1945 only left those concerned with the option of maintaining their own scheme for the purpose of "enjoying benefits additional to those resulting from the instituting of social security".

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[1] See H. Lion in: "Régime de retraites et de prévoyance des cadres", Sirey 1955, pp. 17 and 5.

[2] See H. Lion, op. cit., p. 12.

[3] "A study made at the end of 1946 among the bodies responsible for managing these schemes showed that almost 200 000 people were entitled to benefits", op. cit., p. 35.

In this way a scheme for management pensions and insurance was set up which was to "act as a source of inspiration for the future developement of schemes for the benefit of other employees".[1] This scheme was established by means of a collective bargaining agreement negotiated at national level by professional organizations of employers and management. The agreement of 14 March 1947 made the supplementary pension scheme compulsory. In addition, the agreement was endorsed by a ministerial decree which, by the terms of the law of 23 December 1946 (concerning collective bargaining agreements) was mandatory,[2] and led automatically to the extension of the agreements to employers who were not members of the employers' organization which had signed it, and to their employees, within the limits of the trades and categories of personnel covered by the field of application. The agreement therefore affects the parties to it, and also third parties. Apart from establishing a compulsory pension scheme, the 1947 agreement contained a model for an optional scheme of supplementary pensions and insurance against sickness, disablement and death.

In succeeding years, supplementary pension schemes were developed for other categories of staff. Trade and inter-trade schemes grew up alongside company schemes. "In 1955, 1.5 million wage-earners were covered by a supplementary pension scheme. In 1958, the National Union of Pension Funds (UNIRS) was founded by confederated employers' and workers' organizations. We shall see later[3] the role and characteristics of this organization. It will suffice for the present to stress the importance of this stage. The founding of the UNIRS bears witness to the development of supplementary pension schemes, its immediate aim being to group and coordinate them, and also to prepare the way for the generalization of supplementary pensions.[4]

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1 "Les régimes complémentaires de retraite des salariés" by A. Leroux, Droit social, July-August 1962.

2 The statutory endorsement of collective bargaining agreements by ministerial degree was ended by the law of 11.2.1950. Extension is therefore no longer automatic but depends on an extension procedure which can be set in motion at the request of one of the contracting parties or by the Ministry of Labour.

3 See below, p. 81.

4 "L'Union nationale des institutions de retraite des salariés" by J. Genevray, Droit social, July-August 1962.

It was estimated that, by October 1960, 5.5 million wage-earners were already covered by a supplementary pension scheme: of these, 600 000 came under management systems, 3.5 million under UNIRS and the building trade schemes, and 1 to 1.5 million under independent schemes. There remained to be covered, in sectors depending upon the French national employers' council, between 1.5 and 2 million wage-earners.[1]

The generalization of supplementary pensions could not be much longer delayed. It was achieved by the agreement signed on 8 December 1961 between the employers' council and the trade union organizations. At the request of the parties, this agreement became, on 27 March 1962, the subject of a Ministerial endorsement, which made it binding upon all employers and employees within the trade and territorial scope laid down in it. Its trade scope does not include sectors with a special social security system (agriculture, coalmining, public service and administration). It should also be noted that some organizations belonging to the employers' council, which objected to the agreement or wished to reserve their position, obtained permission to be excluded from it: these sectors are given in Annex II to the agreement, and mainly consist of various types of distributive trades.[2]

These exclusions were, in most cases, temporary; by 1 January 1965, Annex II only included a few distributive trades with few employees in each business.

(2) The French situation is equally original as regards unemployment benefit. Unlike her neighbours, France has not included unemployment relief system in her social security system and, until 1958, only had a law for assistance to unemployed persons. The inadequacy of the guarantees offered by this law were especially felt in 1958, when fears of a recession were rife, and when the entry into force of the Rome Treaty made for comparisons with the more favourable schemes of neighbouring countries. In consequence, various suggestions for reform were tabled in Parliament, but eventually it was the employers' and

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[1] "L'accord sur les retraites complémentaires" by F. Ceyrac, in: "Professions, cahier du Centre chrétien des patrons et dirigeants d'entreprise français", March-April 1962.

[2] The scope of the agreement of 8.12.1961, as regards the nomenclature of economic activities, is shown in a detailed table published in the UNIRS quarterly bulletin, No. 20, July 1963.

workers' organizations themselves who solved the problem: on 31 December 1958, an agreement was signed between the French national employers' council and the national confederations of employees (CFTC, CGTFO and CGC), for the purpose of setting up a "national inter-trade scheme for special benefits for unemployed workers in industry and commerce". Thus a collective bargaining agreement instituted a complete compulsory unemployment insurance scheme supplementary to the relief scheme, which remained in force. The Ministerial endorsement of 12 May 1959 subjected all businesses to the agreement, whatever their type or size, in all sectors represented by trade unions in the French national employers' Council, "i.e. in which there is a trade union organization attached to the Council".[1,2]

(3) Protection against old age and unemployment thus appear to be the two fields where supplementary schemes in France have assumed such importance as to be part of the social security system, in the broad sense of the term.

As for other risks (sickness, disablement, death, family allowances), the situation is quite different. Supplementary schemes exist in these fields, but they have neither the compulsory nature nor the scope of the old age and unemployment schemes. It is consequently more difficult to list them, as this would require a survey at company level, which is where these supplementary benefits have most often been negotiated. In general, these benefits are more often extended to management and clerical staff than to workers.

4. Italy

Supplementary schemes in Italy seem to be of little importance, at least in the private sector.

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1 See "Résultats et tendances du régime conventionnel d'assurance chômage" by G.A. Gau in Droit social, March 1963, and "La convention du 31 décembre 1958 relative à la création de l'assurance chômage" by B. Oudin in Droit social, June 1959.

2 The main sectors covered, with the number of their employees, are as follows: Sections 16 to 29 of the nomenclature of economic activities: 1 972 000; building and public works: 1 046 000; trade: 827 000; textile and allied: 480 000; food industries: 334 000; chemicals: 251 000; transport: 239 000. In all, some 8 million wage-earners were covered by the agreement at 31 December 1961.

Although the information available is scanty, it would seem that existing schemes represent a survival from the past rather than a promise of future prospects, as most of these schemes developed before, and not after, the introduction of statutory social assurance, at least as regards the categories concerned.

The example of the "company mutual funds" is symptomatic. Dating from the period of "compulsory trade union mutual funds", some of them continued to function after the introduction of a statutory sickness benefit scheme in 1943, taking the place of the national health insurance Institute, both as regards the collection of contributions and the payment of benefits. The latter, which are at least equal to those of the "general scheme", are, in some cases, higher, which explains, in part, the difficulty the Institute has in absorbing these funds, the survival of which has, however, no legal basis. The solution provided by a recent decision of the governing body of the Institute is to transform these funds into "delegations" of the Institute, without compromising the maintenance of the "supplementary" benefits, which will, however, have to subject to an agreement with the company.

These funds "deputizing" for the general system covered 451 000 insured persons and beneficiaries in 1962.[1] The national council for economy and labour (CNEL) noted[2] that their supplementary nature could only be made clear once the Institute's decision had been put into force. For the moment, it is impossible to state what share of the activity of these funds is accountable to supplementary benefits.

True supplementary schemes, the only purpose of which is to supplement the statutory benefits of health insurance, are in operation in some large businesses. The CNEL has stated: "on the basis of information received, which must be taken as incomplete, it appears that supplementary schemes are in operation in 182 companies, and extend benefits both in cash and kind. These schemes cover some 187 000 insured persons".[3]

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[1] Consiglio nazionale dell'economia e del lavoro: Relazione preliminare sulla riforma della previdenza sociale; Rome 1963, p. 65.

[2] Ibid. p. 89 : provisional data.

[3] Consiglio nazionale dell'economia e del lavoro: Relazione preliminare sulla riforma della previdenza sociale; Rome 1963; provisional data.

As regards pensions, a distinction is made between trade supplementary schemes and company schemes.

The "trade" schemes, i.e. those covering an entire category, are of some importance, but most of them cover various categories of employees in the public service, not private industry. Apart from the statutory supplementary scheme for coalminers, the following schemes exist in the private sector:

(a) Compulsory scheme for clerical workers in agricultural and forestry enterprises, covering 15 000 insured persons and their families;
(b) Optional scheme for clerical workers in the paper and printing industries: 30 000 insured persons and their families;
(c) Compulsory scheme for management of forwarding agents and transport firms: 3 000 insured persons and their families;
(d) Compulsory scheme for clerical workers in industry: 320 000 insured persons and their families;
(e) Compulsory scheme for commercial travellers and representatives of industrial firms: 12 000 insured persons and their families;

giving a total of 380 000 persons covered, out of 1 895 000 covered by supplementary schemes as a whole.[1] All these schemes cover clerical workers or management, and their existence is explained by the fact that, until 1950, the contribution ceiling excluded a large number of clerical staff from compulsory old age insurance. When this ceiling was removed, the schemes were turned into supplementary ones.[2]

Side by side with the "trade" schemes, there are a few company schemes. According to the CNEL survey, and with the reservation that the data collected were incomplete, there were 157 company schemes, covering 191 000 insured persons, in 1960-61.[3]

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[1] See CNEL, op. cit., Table 1, pp. 31-32.

[2] This is true, for example, of the paper industry insurance scheme, instituted in 1937 by a corporative collective bargaining agreement (compulsory for the whole trade).

[3] See CNEL, op. cit., p. 60.

Supplementary schemes appear to be non-existent or very exceptional with regard to industrial accidents and family allowances.[1] As regards unemployment, the CNEL mentions a single scheme in the paper industry (partial unemployment); no indications were given about possible company schemes.[2]

5. The Netherlands

It is not possible to evaluate the degree of social protection enjoyed by Netherlands workers without taking account of the supplementary schemes existing at either trade or company level.

They play an important part in old age pensions, where the national insurance scheme only guarantees a uniform basic pension regardless of the income of the worker during his active life. It is very possible that those who made the law thought that national insurance should be a basis on which supplementary schemes adapted to the needs of each trade would be constructed. The establishment of such schemes is facilitated, financially, by the fact that employers are not called upon to make any contribution to national insurance.

The schemes have been established either for the whole of a trade, by the creation of a common fund, or by means of an agreement at company level, in some cases with the setting up of a company fund.

As in many other countries, trade pension funds were established, in the shape of optional benefit societies, long before the introduction of compulsory social insurance. However, in the Netherlands, the development of social legislation did not integrate existing schemes into a legal system; on the contrary, the expansion of trade schemes was facilitated by it. In 1949[3] the law intervened to permit trade schemes to become compulsory for the whole of a trade, and to impose certain rules about the operation of funds. By the end

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[1] See CNEL, op. cit., pp. 89 and 107.

[2] See CNEL, op. cit., p. 105.

[3] Law of 17 March 1949.

of 1948, there were 20 trade funds. Between 1 January 1949 and 1 January 1960, 44 new funds were set up,[1] 31 of which were compulsory. By 1 January 1965, the number of compulsory trade funds was 58. A list is given below:

1. Graphic arts industry pension fund
2. Bulb-growers' pension fund
3. Agricultural pension fund
4. Metalworking and machinery industries pension fund
5. Textile industry pension fund
6. Industrial pension fund (Twentse-Gelderse district)
7. Light metal-industry pension fund
8. Public health and social workers' pension fund
9. Leather industry pension fund
10. Butchers' pension fund ("De Samenwerking")
11. Painters' pension fund
12. Building trades' pension fund
13. Wood industries' pension fund
14. Bakers' pension fund
15. Footwear and leather article industry pension fund
16. Footwear industry clerical workers' pension fund
17. Merchant seamen's pension fund
18. Furniture industry pension fund
19. Solicitors' clerks' pension fund
20. Meat processing industry pension fund
21. Dredging companies' pension fund
22. Brickmaking companies' pension fund
23. Cement industry pension fund
24. Chemists' assistants' pension fund
25. Tile, stoneware and ornamental brick companies' pension fund
26. Packing-case makers' pension fund
27. Wood products and brushmaking industry pension fund
28. Film and cinema industry pension fund
29. Architects' office employees' pension fund

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[1] See Ministerie van Sociale zaken en Volksgezondheid, Jaarverslag 1959, bijlage 3.

30. Ready-made clothing industry pension fund
31. Building material traders' pension fund
32. Cardboard and paper-bag industry pension fund
33. Pastrycooks' pension fund
34. Plate-glass, coloured glass, glass processing and fine glassware wholesalers' pension fund
35. Artificial stoneware industry pension fund
36. Transport and port installations companies, Rotterdam pension fund
37. Made-to-measure clothing industry pension fund
38. Fruit and vegetable processing industry pension fund
39. Fuel retailers' pension fund
40. Building cooperatives' pension fund
41. Linen industry pension fund
42. Drinks industry pension fund
43. RAMAZZO-SZS pension fund
44. Potato-flour industry pension fund
45. Shoemakers' pension fund
46. Strawboard industry pension fund
47. Agricultural and food products trade pension fund
48. Confectionery and chocolate industry pension fund
49. Sugar processing industry pension fund
50. Clog industry pension fund
51. Opticians' pension fund
52. Hotel and restaurant trade pension fund
53. Cleaning companies' pension fund
54. Bituminous roofing companies' pension fund
55. Professional road hauliers' pension fund
56. Food wholesalers' pension fund
57. Pottery and china industry pension fund
58. Sea fisheries' pension fund

To these compulsory trade schemes must be added optional trade schemes and company schemes. The latter can be a fund managed by the company or a pension based on a group policy taken out with an insurance firm.

On 1 January 1964 trade schemes, whether compulsory or optional, covered 1 089 000 insured persons. This figure includes some 20 000 self-employed

persons, so that the number of wage-earners covered was about 1 069 000. In addition, company schemes (pension or "savings" funds) were 1 685 in number, covering 495 000 persons at a rough estimate. Finally, company pension schemes working without an autonomous fund covered nearly 150 000 persons. The total gives a figure of 1 714 000, or over 80% of the wage-earning male labour force in private industry between the ages of 18 and 64.

Although, as in Germany, France and even Italy, pensions are, in the Netherlands, the main concern of supplementary schemes, one cannot neglect the supplementary benefits added to the statutory benefit in other sectors of social security.

The guarantee, at occupational level, of benefits greater than those laid down by law is made easier by the method of management of certain branches of social security; 26 "trade associations" manage health insurance (benefits in kind) unemployment benefit and family allowances. These associations can apply benefit rules that are more favourable than the statutory ones, and it seems that this is very often done in the case of sickness and, to a small extent, unemployment benefit.[1]

In addition, collective bargaining agreements provide, in some sectors, for compulsion on the employer to supplement the legal benefit in the case of industrial accidents.

As regards health, there are company supplementary schemes and even some trade schemes (in printing, for example).

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[1] As regards we -time benefit in the building trade, see Annex for extracts from the EEC's special report on supplementary schemes in this sector.

CHAPTER II

Information provided by cost-of-labour surveys

The surveys carried out by the Statistical service of the European Communities into the cost of labour are the only source, at present, for an evaluation of the importance of supplementary schemes in the EEC countries on the basis of comparable statistical data.

These surveys took in 14 branches of industry in 1959 and 1962, 8 branches in 1960 and 13 in 1961.[1] The developments which followed were mainly based on the first three studies, but some additions were made on the strength of the 1962 results.

The essential aim of the studies was to determine the cost of labour and the income of workers, and they were only incidentally concerned with social security, inasmuch as it constituted one element of the labour cost.

Consequently, in the table showing, for each branch of activity, the hourly (or monthly, in the case of clerical staff) cost of wages and other expenses incurred by the employer, there was a column headed "social security contributions", with the following subheadings:

(1) Statutory contributions:

(a) Sickness, maternity, disablement, pensions, unemployment;

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[1] In 1959 and 1962: the sugar industry; breweries and malthouses, wool-spinning; cotton-spinning; synthetic fibres; paper-pulp, paper and card-board; the chemical industry; the rubber industry; cement; pottery, china and earthenware; machine-tools; the electrotechnical industry; shipyards and ship repairs; motor-cars and lorries. In 1960: chocolate, confectionery and biscuits; fruit and vegetable processing; Italian pasta; footwear; plywood; wooden furniture; concave and sheet glass; precision tools and optical instruments. In 1961: meat preparation and processing; fish preparation and processing; hosiery; ready-made clothing; paper processing; manufacture of articles in paper-pulp, paper and cardboard; printing; tanning; leather-dressing; plastics; terra-cotta building materials; production and initial processing of non-ferrous metals; manufacture of metal assemblies (subdivided into 6 parts); agricultural machinery and tractors; aeronautical construction and repair. See Office statistique des Communautés européennes, statistiques sociales No. 3 - 1961, No. 1 - 1963, Nos. 2 and 5 - 1964.

(b) Industrial accidents and occupational diseases;

(c) Family allowances;

(d) Guaranteed weekly wage (Belgium);

(e) Other statutory contributions.

(2) Agreed, contractual or voluntary costs[1]

(a) Company or trade mutual funds;

(b) Supplementary pension scheme;

(c) Additions to wages in case of sickness or accident;

(d) Contribution to supplementary unemployment benefit scheme;

(e) Contractual family allowances;

(f) Other family supplements;

(g) Other benefits.

The results under these headings are given first as averages in the currency of the country concerned, then as an average in Belgian francs and finally as a percentage of the total wage-bill. It does not seem appropriate to reproduce them in this report, and we shall confine ourselves to giving the most significant indications about:

(i) The importance of "agreed costs" by country, in absolute value and in comparison with statutory costs;

(ii) The variation of agreed costs according to industry and company;

(iii) The structure of agreed costs.

However, some reservations are necessary with regard to the scope of this information.

In the first place, the surveys concern three successive years, but deal with different industries each time, so that, where there are differences from one survey to the next, it is difficult to appreciate their meaning: has there been an evolution in the course of time, or are there differences between industries?[2]

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[1] In the 1959 survey there was no breakdown of costs under this heading.

[2] However, a comparison of the results of the 1959 and 1962 studies, which dealt with the same branches of industry, should make it possible to discern certain tendencies. See below under V.

In addition, it is probable that the "costs" shown under the headings that interest us correspond to heterogeneous "schemes", and include not only the employers' contributions to real supplementary schemes but also benefits granted by companies on a voluntary basis, without any entitlement on the worker's part (especially under subheadings (f): other family supplements, and (g): other benefits).

Finally, it should not be forgotten that these indications only concern cost to the employer, and consequently do not make it possible to make an exact comparison, by country, of the importance of supplementary schemes with regard to the level of benefit they provide. It must be remembered that some of these schemes are financed entirely by the company, as is usual in Germany, while in other cases both employer and employee make contributions, which is the rule in France and the Netherlands.

1. THE IMPORTANCE OF SUPPLEMENTARY SCHEMES EVALUATED IN TERMS OF COST TO THE EMPLOYER

(1) Importance of agreed social costs by country, broken down into various categories of average cost.

Tables 2 and 3 show, for each country and each study, how the various industries break down into categories of size of cost, expressed first in absolute value (in Belgian francs) and then in relative value (% of total cost). These tables make it possible to compare, at the same time, the respective positions of the countries, the level of costs, and the concentration or dispersion of figures round the modal group (category with the highest number of figures).

It can be seen at once that the countries are separated into two groups: on the one hand, Belgium, Italy (and Luxembourg), where costs in almost all industries are at the lowest level; and, on the other, Germany, France and the Netherlands, where the level of costs is higher in most industries.

As regards the first group of countries, the workers' position is much the same. As a general rule, agreed costs do not exceed 1% of total hourly cost, and are often nil. In some sectors they vary between 1 and 2%. In the case of

clerical workers, although the same is true for them in Italy, we find that in Belgium there is a higher level of cost in most industries, usually 2 to 4%, but rising to 8% in some cases.

The following comments refer to the second group of countries:

In Germany, and to a lesser extent in the Netherlands, the results of the 1959 study are markedly different from those of the subsequent ones. For 1959, the cost level is generally higher, and dispersion round the modal group is much more apparent. However, it is difficult to interpret differences in the results of three studies dealing with different industries: has there been a tendency for agreed costs to fall, or are the differences due to the industries examined in each study?[1] It may also be true that the 1959 study did not break down "agreed costs", and countries may have interpreted this more or less widely.

Bearing this reservation in mind, it can be seen that the three countries occupy similar positions. In the case of workers, the modal group falls into category 1-2%, or 2-3%, but in some industries the cost is higher, especially in Germany and the Netherlands. In the latter country, it seems that agreed costs are usually slightly higher than in the other two, both in absolute and relative value. For clerical workers, France falls behind the two other countries, with costs mostly in the 2-4% category, whereas 4-6% is the most usual figure for Germany and the Netherlands. In all three countries, and the last two especially, costs are higher for clerical staff than for workers.

(2) Agreed and statutory social security costs.

Tables 3 and 4 show the average relative importance in the five countries of agreed social security costs, in comparison with the total cost of labour and with statutory costs. The figures have been obtained by calculating, under each heading, a weighted arithmetical average based on the numbers of persons employed in each industry concerned.

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[1] The results of the 1962 study, dealing with the same industries as that of 1959, seems to show a tendency in Germany for agreed costs to fall (a relative fall in total percentage of labour costs, and stagnation in absolute value). See below, item V.

(a) Considering, in the first place, agreed costs compared with total labour cost, it appears that the positions of the five countries are more distinct than under (1) above. For workers, the average is highest in the Netherlands, followed by Germany and, much behind, France.[1] Then come Italy and Belgium, at much the same level. As regards clerical staff, Germany heads the list, followed by the Netherlands. The gap between the latter and France is greater than in the case of the workers. Belgium's position is close to the French one.

The difference between the average level of agreed costs as between workers and clerical staff is interesting. With the exception of Italy, it seems that supplementary schemes for the latter are more important than for the workers. The difference is especially marked in Belgium, where the cost for clerical staff is six times greater than that for workers, although the latter cost is as low as 0.5%. The gap is narrower in Germany, but still very evident, where more has been done for clerical staffs and especially for management, who are not subject to compulsory sickness and pension schemes above a certain salary. In France and the Netherlands there is a 100% difference between the agreed costs for workers and clerical staff, which is no doubt due to a greater application of supplementary pension schemes for the latter category.

In order to complete the picture provided by average rates calculated on the basis of three surveys and the data given in Tables 2 and 3, the extreme limits revealed by each survey are given in Table 6. This shows that, within the same country, agreed costs are subject to great variations from one industry to another, which is evidence of the lack of homogeneous development in supplementary schemes.

(b) The importance of the cost of supplementary schemes can also be evaluated by comparing them with those imposed upon employers by law as contributions to the compulsory social security scheme.[2]

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[1] The results of the 1962 study show a marked narrowing of the gap between the respective positions of Germany and France.

[2] In making this comparison, it must be remembered that statutory costs correspond to employers' contributions for all forms of social security, whereas supplementary schemes, whether financed by agreed or voluntary contributions, do not cover all risks, but are usually confined to a few; in fact, as we shall see later, mainly to pensions alone.

TABLE 2

Importance of agreed, contractual or voluntary social costs in industries of EEC countries (1959-61)

Workers

Category (Average cost per hour worked)	Number of industries																	
	Germany			Belgium			France			Italy			Luxembourg			Netherlands		
	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961
In Bfrs.																		
from 0 to less than 0.50	1	3	2	11	7	17	5	3	2	13	8	16	-	-	2	3	1	2
from 0.50 to less than 1.00	3	4	10	-	-	-	5	4	10	1	-	1	1	-	-	1	4	7
from 1.00 to less than 1.50	5	1	4	1	-	-	4	1	5	-	-	-	-	-	-	2	1	5
from 1.50 to less than 2.00	1	-	2	-	-	-	-	-	1	-	-	-	-	-	-	4	-	-
from 2.00 to less than 2.50	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
from 2.50 to less than 3.00	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	14	8	18	12	7	17	14	8	18	14	8	17	1	-	2	10	6	16
In % of total cost per hour																		
from 0 to less than 1	-	-	2	10	7	17	2	2	1	10	8	15	-	-	2	-	-	1
from 1 to less than 2	3	5	10	1	-	-	8	5	8	4	-	2	1	-	-	4	1	3
from 2 to less than 3	6	2	4	1	-	-	3	1	8	-	-	-	-	-	-	1	3	8
from 3 to less than 4	-	1	2	-	-	-	1	-	1	-	-	-	-	-	-	1	2	2
from 4 to less than 5	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-
from 5 to less than 6	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	-	1
6 and over	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	14	8	18	12	7	17	14	8	18	14	8	17	1	-	2	10	6	16

TABLE 3

Importance of agreed, contractual or voluntary social costs in industries of EEC countries (1959-61)

Clerical staff

Category (Average cost per hour worked)	Number of industries																	
	Germany			Belgium			France			Italy			Luxembourg			Netherlands		
	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961	1959	1960	1961
In Bfrs.																		
from 0 to less than 250	-	1	3	4	4	11	-	1	-	12	8	16	1	-	2	-	-	-
from 250 to less than 500	1	2	6	4	3	5	7	4	8	2	-	-	-	-	-	1	2	2
from 500 to less than 750	5	3	7	3	1	-	6	3	8	-	-	-	-	-	-	2	3	8
from 750 to less than 1000	1	1	1	1	-	-	1	-	2	-	-	-	-	-	-	3	1	4
from 1000 to less than 1250	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-
from 1250 to less than 1500	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
from 1500 to less than 1750	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
from 1750 to less than 2000	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2000 and over	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	14	8	18	12	8	16	14	8	18	14	8	16	1	-	2	10	6	14
In % of total cost per hour																		
from 0 to less than 2	-	-	3	5	4	10	-	-	-	12	8	16	-	-	-	-	-	-
from 2 to less than 4	-	1	5	5	3	6	9	6	11	2	-	-	1	-	2	1	-	-
from 4 to less than 6	5	5	8	1	1	-	5	2	7	-	-	-	-	-	-	-	4	10
from 6 to less than 8	2	1	1	1	-	1	-	-	-	-	-	-	-	-	-	3	2	4
from 8 to less than 10	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	4	-	-
from 10 to less than 12	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-
12 and over	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	14	8	18	12	8	17	14	8	18	14	8	16	1	-	2	10	6	14

TABLE 4

Agreed and statutory social security costs expressed as a percentage of total wage-bills and other costs to employers (1959-61)[1]

Workers

Cost category	Germany	Belgium	France	Italy	Netherlands
Statutory costs imposed by law	11.74	15.27	19.17	25.36	9.89
Agreed, contractual or voluntary costs	2.52	0.46	1.74	0.55	3.15
Total social security contribution	14.26	15.73	20.91	25.91	13.04

[1] Weighted average of results of the three surveys.

TABLE 5

Agreed and statutory social security costs expressed as a percentage of total wage-bills and other costs to employers (1959-61)[1]

Clerical staff

Cost category	Germany	Belgium	France	Italy	Netherlands
Statutory costs imposed by law	8.48	9.78	12.47	17.80	5.45
Agreed, contractual or voluntary costs	7.55	2.95	3.71	0.68	7.37
Total social security contribution	16.03	12.73	16.18	18.48	12.82

[1] Weighted average of results of the three surveys.

TABLE 6

Agreed costs expressed as a percentage of total labour costs

Extreme limits shown in country studies

Workers

Country	Highest rate	Lowest rate
	1959 study	
Germany	6.31 (cement)	1.39 (pottery, etc.)
Belgium	2.29 (sugar industry)	0.05 (cotton-spinning)
France	3.14 (wool-spinning)	0.69 (pottery, etc.)
Italy	1.25 (chemicals)	0.22 (synthetic fibres)
Netherlands	5.75 (sugar industry)	1.45 (rubber industry)
	1960 study	
Germany	3.62 (Italian pasta)	1.30 (wooden furniture)
Belgium	0.47 (chocolate)	0.00 (Italian pasta)
France	2.21 (glass)	0.88 (fruit and vegetable processing)
Italy	0.90 (precision tools)	0.00 (fruit and vegetable processing)
Netherlands	3.53 (chocolate)	1.54 (footwear)
	1961 study	
Germany	3.50 (metal furniture)	0.26 (fish processing)
Belgium	0.86 (nuts and bolts)	0.00 (meat processing)
France	3.36 (tanning)	0.98 (fish processing)
Italy	1.94 (aircraft industry)	0.02 (ready-made garments)
Netherlands	5.39 (printing)	1.60 (hosiery)

TABLE 7

Agreed and voluntary social security costs expressed as a percentage of total social security costs

Country	Workers	Clerical staff
	1959 study	
Germany	33.80 (cement)	65.07 (sugar industry)
Belgium	13.89 (sugar refineries)	46.33 (sugar industry)
France	13.84 (synthetic fibres)	32.90 (cement)
Italy	5.37 (motor-car manufacture)	13.30 (sugar industry)
Netherlands	38.46 (sugar industry)	69.03 (electrotechnical industry)
	1960 study	
Germany	23.91 (Italian pasta)	49.14 (glassmaking)
Belgium	2.91 (chocolate)	29.78 (glassmaking)
France	10.87 (glassmaking)	28.02 (plywood)
Italy	3.38 (precision tools)	3.30 (glassmaking)
Netherlands	25.93 (chocolate)	57.69 (plywood)
	1961 study	
Germany	24.56 (metal furniture)	47.82 (nuts and bolts)
Belgium	4.85 (nuts and bolts)	41.45 (non-ferrous metal working)
France	13.13 (tanning and leather-dressing)	28.03 (tanning and leather-dressing)
Italy	7.17 (aircraft industry)	6.35 (printing)
Netherlands	34.69 (printing)	61.02 (metal kegs and boxes)

Tables 4 and 5 show:

(a) That in Germany and the Netherlands, where statutory costs are the lowest, the agreed costs are highest, and this brings them to some extent into line with other countries as regards total social security costs;

(b) That, for clerical workers, agreed costs are higher than statutory ones in the case of the Netherlands, and only slightly lower than the latter in Germany. In order to refine upon observations based on general averages, Table 7 gives, for each country and each industry covered by the studies, the industries where agreed costs are highest in comparison with statutory ones.

2. VARIATIONS ACCORDING TO INDUSTRIAL SECTOR

It appears from the data given above that agreed costs, whether expressed in terms of hourly expenses or as a percentage of total cost, vary from one industry to another, and to an extent which depends upon the country.

This being the case, one may enquire which are the "favoured" industries in each country, whether these are the same in all the countries, and whether there is any relationship between the level of agreed costs (and consequently the importance of supplementary schemes) and other factors, such as the level of wages. Tables 8 to 13 answer these questions to some extent, by presenting classifications of industries according, on the one hand, to the importance of the agreed and voluntary social security costs, and, on the other, according to wages paid.[1]

In addition, Spearman's formula for the coefficient of correlation of columns has been used to measure the correlation of the two criteria. This coefficient can vary from +1 to -1. The value of 1 corresponds to a perfect identity of both classifications, and value 0 to total disorder. The + or - sign shows the direction of correlation.

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[1] These classifications have been based on data expressed in national currencies (average per hour). The wage level is determined by adding the following data from the survey schedule: direct wages (I) + bonuses and gratifications (II) + remuneration paid for unworked days (III) + advantages in kind (VII).

TABLE 8

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1959)

Workers

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Sugar industry	11	10	1	5	12	10	3	7	2	4
Breweries and malthouses	2	4	8	9	11	11	7	11	3	3
Wool-spinning	13	13	5	12	3	13	14	13	9	9
Cotton-spinning	12	12	12	11	10	14	12	14	8	8
Synthetic fibres	7	7	-	-	1	2	13	9	-	-
Paper-pulp, paper and cardboard	5	9	3	4	7	7	4	10	4	5
Chemical industry	4	3	2	7	6	5	2	5	1	2
Rubber industry	9	8	10	6	13	9	10	2	7	6
Cement	1	6	6	2	4	4	6	8	-	-
Pottery, china, earthenware	14	14	11	10	14	12	11	12	10	10
Machine-tools	6	5	7	3	8	3	5	4	-	-
Electrotechnical industry	10	11	4	8	9	8	8	6	5	7
Shipyards and ship repairs	8	2	9	1	5	6	9	3	6	1
Motor-cars and lorries	3	1	-	-	2	1	1	1	-	-
r^1	0.80		0.22		0.63		0.54		0.78	

[1] Coefficient of correlation between the positions.

TABLE 9

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1959)

Clerical staff

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Sugar industry	1	1	1	10	10	6	3	8	4	8
Breweries and malthouses	4	6	11	9	13	12	12	12	2	7
Wool-spinning	14	11	6	11	6	10	14	13	8	6
Cotton-spinning	13	12	7	6	12	13	10	11	6	5
Synthetic fibres	6	4	-	-	2	4	11	3	-	-
Paper-pulp, paper and cardboard	7	3	3	3	5	3	2	4	1	1
Chemical industry	3	5	4	2	7	5	4	6	7	4
Rubber industry	9	13	12	8	9	9	6	2	10	9
Cement	2	2	2	1	1	1	1	1	-	-
Pottery, china, earthenware	10	14	10	12	14	14	8	14	9	10
Machine-tools	11	9	8	5	11	7	9	10	-	-
Electrotechnical industry	5	8	5	7	8	8	7	9	3	3
Shipyards and ship repairs	12	10	9	4	4	11	13	5	5	2
Motor-cars and lorries	8	7	-	-	3	2	5	7	-	-
r[1]	0.81		0.39		0.75		0.51		0.60	

[1] Coefficient of correlation between the positions.

TABLE 10

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1960)

Workers

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Chocolate, confectionery and biscuits	7	7	1	6	5	6	4	3	2	6
Fruit and vegetable processing	8	8	3	7	8	8	8	8	5	4
Italian pasta	1	5	8	8	4	5	3	4	-	-
Footwear	6	4	6	5	6	7	6	6	6	5
Plywood	4	6	5	4	3	4	7	7	4	3
Wooden furniture	5	2	4	2	7	3	5	5	3	2
Concave and sheet glass	3	1	7	1	1	1	2	1	-	-
Precision tools and optical instruments	2	3	2	3	2	2	1	2	1	1
r[1]	0.55		0.00		0.76		0.95		0.43	

[1] See footnote to Table 8.

TABLE 11

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1960)

Clerical staff

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Chocolate, confectionery and biscuits	7	4	6	5	4	6	3	3	2	3
Fruit and vegetable processing	4	7	3	2	5	7	8	5	3	4
Italian pasta	2	5	5	6	6	5	5	4	-	-
Footwear	6	8	8	8	8	8	4	7	6	6
Plywood	5	1	4	4	1	2	7	6	1	1
Wooden furniture	8	6	7	7	7	4	6	8	5	5
Concave and sheet glass	1	2	1	1	2	1	1	1	-	-
Precision tools and optical instruments	3	3	2	3	3	3	2	2	4	3
r[1]	0.38		0.95		0.76		0.71		0.94	

[1] See footnote to Table 8.

TABLE 12

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1961)

Workers

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Meat preparation and processing	7	8	13	9	8	7	9	7	4	8
Fish preparation and processing	13	12	7	12	13	13	13	13	9	9
Hosiery	8	11	11	11	10	11	11	11	11	12
Ready-made clothing	12	13	12	13	12	12	12	12	12	13
Paper processing: manufacture of articles in paper-pulp, paper and cardboard	6	9	2	7	8	8	5	9	2	10
Printing	3	1	3	6	2	1	2	1	1	2
Tanning and leather-dressing	10	7	5	9	3	9	6	5	8	7
Plastics	11	10	10	10	9	6	8	9	10	11
Terra-cotta building materials	9	5	8	3	11	10	10	10	7	6
Production and initial processing of non-ferrous metals	1	2	1	1	1	3	3	2	3	1
Agricultural machinery and tractors	5	4	9	5	5	4	7	4	6	3
Aeronautical construction and repair	2	6	6	2	4	2	1	3	-	-
Metal assemblies	4	3	4	4	7	5	4	6	5	4
r[1]	0.80		0.61		0.82		0.90		0.65	

[1] See footnote to Table 8.

TABLE 13

Comparative classification of industries according to the importance of agreed, contractual and voluntary social security costs on one hand, and wage levels on the other

(1961)

Clerical staff

Industry	Germany		Belgium		France		Italy		Netherlands	
	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages	Agreed costs	Net wages
Meat preparation and processing	12	13	13	8	11	10	12	8	8	12
Fish preparation and processing	13	10	5	5	12	12	13	13	5	1
Hosiery	10	11	10	12	10	11	11	12	9	11
Ready-made clothing	11	12	12	13	13	13	8	11	11	10
Paper processing: manufacture of articles in paper-pulp, paper and cardboard	4	5	2	4	6	5	4	6	7	8
Printing	5	4	6	7	2	1	1	1	2	9
Tanning and leather-dressing	2	6	8	3	3	7	7	3	6	2
Plastics	9	9	9	2	7	6	9	9	10	7
Terra-cotta building materials	6	2	7	10	9	9	10	10	1	5
Production and initial processing of non-ferrous metals	1	1	1	1	1	2	3	2	3	3
Agricultural machinery and tractors	7	7	11	9	8	8	6	7	12	6
Aeronautical construction and repair	8	8	4	11	4	3	2	4	-	-
Metal assemblies	3	3	3	6	5	4	5	5	4	4
r[1]	0.87		0.51		0.93		0.86		0.43	

[1] See footnote to Table 8.

It can be seen that, with one exception (Belgium, workers, 1960 study) there is a positive correlation between the two classifications.

In the light of the variations observed in any one country, it appears difficult to decide whether this correlation is closer in one country than in the others. Although there is no exact agreement between the two classifications, it nevertheless seems that, on the whole, supplementary schemes represent a relatively higher cost and therefore have a greater development in industries where the wage level is above average.

Furthermore, when looking at the classification according to the importance of the agreed costs, we note that, in all countries, certain industries nearly always head the list. This is true in the 1959 study for cement, chemicals, motor-car manufacture and paper; in 1960 for precision tools and glassmaking; in 1961 for printing, non-ferrous metals and aircraft manufacture.

3. VARIATIONS ACCORDING TO COMPANY SIZE

In the same sector of industry, we find variations in the level of agreed costs from one company to another, especially where supplementary schemes are not on a sectorial, but on a company basis.

The publications of the EEC statistical service concerning the 1960 and 1961 surveys include a study of the relationship between manpower costs and the size of the company.[1]

The tables given also show agreed costs broken down into five categories of company size: 50-99 employees; 100-199; 200-499; 500-999; and 1 000 employees or more. On the basis of these tables (not given here) and the averages shown in Table 13, the following comments may be made:

(a) In Germany, the lowest agreed costs are found in the first category, whilst the highest are found in medium-sized (200-499) and large firms (1 000 employees or more). It is worth noting that the difference in cost level between these groups can be considerable, most cases being in the ratio of 1:3.

[1] This study was not made in the 1959 survey.

(b) The same phenomenon is seen in Belgium and Italy, where the differences in agreed costs in large and small companies is sometimes greater still.

(c) In France and the Netherlands, on the other hand, the rule that the larger the firm the greater the agreed cost does not seem to hold good.

It can be seen that in France, as far as workers are concerned, the highest costs are to be found in the small companies. In general, it can be asserted that the size of the company is not a determining factor in these countries. This is not surprising, because supplementary schemes have usually been established there by collective bargaining agreements at the level of the industry as a whole.

TABLE 14

Agreed, contractual and voluntary social security costs expressed as a percentage of total wage expenses and other employers' costs, according to company size (1960-61)[1]

Workers

Country	Numbers employed by company					
	50-99	100-199	200-499	500-999	1 000 and over	Total
			Workers			
Germany	0.87	1.26	1.67	1.62	2.45	1.75
Belgium	0.08	←	0.19	→	0.87	0.27
France	2.86	1.68	1.86	← 2.36 →		1.91
Italy	0.09	←	0.35	→		0.32
Netherlands	2.55	←	2.79	→		2.77
			Clerical staff			
Germany	1.95	3.11	4.62	4.42	6.23	4.49
Belgium	0.47	←	1.95	→	5.61	2.47
France	3.29	3.46	3.54	→ 4.01 →		3.78
Italy	0.15	←	0.41	→		0.40
Netherlands	4.44	←	5.75	→		5.75

[1] Weighted average of results of the two surveys.

4. STRUCTURE OF AGREED COSTS

The results of the studies published by the statistical service for 1960 and 1961 include a breakdown of agreed and voluntary costs into several subheadings,[1] corresponding to various categories of supplementary benefits.

An examination of the costs borne by employers under these headings shows that supplementary pension schemes are the greatest source of costs.

Table 15 shows the percentage obtained by comparing, for all the industries included in each study the average[2] figure for hourly or monthly cost of supplementary pension schemes and the average[2] cost of total agreed costs. We see that, in Germany and the Netherlands, supplementary schemes represent more than 80% of all agreed costs. Then come Belgium and France, with 45% and 55% for workers, but more than 70% for clerical staff; and lastly Italy, with under 25%. In the case of the latter country, the averages on which the percentage is based are of limited value, because of the great variations from one industry to another. In many sectors where agreed costs amount to a negligible figure, there

TABLE 15

Supplementary pension scheme costs expressed as a percentage of all agreed, contractual or voluntary social security costs[1]

Country	Workers		Clerical staff	
	1960-1961[1]	1962	1960-1961[1]	1962
Germany	84.2	78.3	89.0	91.7
Belgium	46.2	63.6	70.3	85.9
France	55.1	70.0	74.6	83.2
Italy	20.1	22.4	24.5	21.6
Netherlands	82.2	83.3	87.7	81.3

[1] Weighted average of results of 1960 and 1961 surveys. Weighted average of results of 1962 survey.

[1] See above, pp. 30 and 31.

[2] Weighted average of results of both surveys (1960 and 1961).

are no supplementary pension schemes.[1] If only sectors where such schemes exist were taken, a higher percentage would be obtained. In any event, it is clear that agreed costs, which are already very low in Italy, are distributed among various types of supplementary benefit to a greater extent than in other countries.

The composition of other agreed costs varies from one country to another. The results of the surveys make it clear that:

(a) No entry was made, in any country or industry, under the heading "supplementary wages in case of sickness or accident". This cannot be due to the fact that benefits of this kind are non-existent, but is no doubt explained by the practice of companies, which do not distinguish between the costs they assume in these cases and the direct wage.

(b) Costs arising from a supplementary unemployment benefit scheme are only shown for France[2] (after 1960). This is the most important cost-heading after supplementary pensions. The 1961 survey showed it as accounting for an average of 25% of all agreed costs for workers, and 14% of them for clerical staff. This means that supplementary pension and unemployment benefit schemes represent 82% of agreed costs in the case of workers, and 88% in that of clerical staff.

(c) Referring to the 1961 study (workers), we see that costs attributable to "company or trade mutual funds" are mentioned for all industries in the Netherlands and France, foremost in Italy and for a few in Belgium. Such costs are not mentioned in the case of Germany. It is clear that the benefits extended by these "mutual funds" may be of various kinds, but there is reason to believe that they are essentially sickness benefit funds.

(d) Finally, with regard to contractual family allowances, the costs given show these to be fairly frequent in Germany, rarer in France, rarer still

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[1] Among the sectors studied in the 1961 survey, this was true for 10 industries out of 19 (for workers) and 6 out of 19 for clerical staff.

[2] No cost is shown against this heading for Belgium, although that country has supplementary unemployment benefit schemes in several of the industries covered by the surveys.

TABLE 16

Statutory and agreed social security costs expressed as a percentage of total wages and allied costs to employers in 1959 and 1962

Cost	Year	Germany	France	Italy	Netherlands	Belgium
				Workers		
Statutory costs	1959	11.65	18.81	24.08	9.57	14.37
	1962	11.37	20.01	25.90	9.59	15.83
Agreed, contractual or voluntary costs	1959	3.15	1.59	0.71	3.52	0.66
	1962	2.72	2.17	1.07	3.57	0.88
Total social security contribution	1959	14.80	20.40	24.79	13.09	15.03
	1962	14.10	22.18	26.97	13.17	16.72
				Clerical staff		
Statutory costs	1959	8.32	11.99	16.81	4.86	8.99
	1962	7.73	12.97	19.46	4.68	10.28
Agreed, contractual or voluntary costs	1959	9.54	3.67	0.83	8.47	3.22
	1962	8.57	4.23	0.88	8.59	3.26
Total social security contribution	1959	17.86	15.66	17.64	13.33	13.21
	1962	16.30	17.20	20.34	13.27	13.54

in Belgium and the Netherlands, and exceptional in Italy. In all cases, the figures given (average per industry) are low, so that these benefits would seem to be limited to a few companies in the industry concerned.

5. CHANGES BETWEEN 1959 AND 1962

The results of the 1962 survey enable the use of fresh data to complete the previous picture, and also to compare the figures obtained with those of 1959 for the same branches of industry.

Table 16 compares weighted averages of statutory and agreed social security costs for 1959 and 1962, expressed as a percentage of total labour costs.

This table calls for the following remarks:

(i) In the case of workers, the relative importance of agreed costs has increased in all countries except Germany. The increase is especially great in France, where it no doubt reflects the generalization of supplementary pension schemes. The lower costs in Germany may be interpreted as a stagnation or even a regression of these schemes: expenditure for supplementary benefits - which, as we have seen, are made up of pensions to the extent of 80% - have not followed the upward movement of other cost elements, especially direct wages. This change is probably due in great measure to improved statutory pensions as a result of the 1957 reform.

(ii) For clerical staff the same changes have occurred, but variations are less striking, both as regards the regression observed in Germany and the increases noted in the other countries.

(iii) The result is a certain movement in the relative positions of the various countries as shown in Section I of this report. In the case of workers, the Netherlands is clearly ahead of Germany, with France catching up on the latter. In the group of countries where agreed costs are low, the gap between Belgium and Italy has widened. In the case of clerical staff, the Netherlands has outstripped Germany by 1962, and takes first place.

PART TWO

SUPPLEMENTARY PENSION SCHEMES

CHAPTER I

Supplementary pensions in Germany

As we have seen earlier, supplementary schemes in Germany are mainly concerned with pensions, which represent an average of 80% of the expenses borne by employers under the heading of "agreed or voluntary social security costs".

The importance of these schemes, both as regards their cost and the benefits they extend to most wage-earners, cannot be gainsaid, even though, contrary to the state of affairs in France and the Netherlands, it is difficult to evaluate these sums exactly, and even though the German schemes do not correspond in many ways to the notion of supplementary schemes in other countries, especially France.

No doubt in Germany, as in other countries, the supplementary schemes had their origin in the voluntary action of certain employers at a time when social legislation still lay in the future. Their subsequent history is not confined to Germany either, at least for a certain time. Company pensions did not disappear with the introduction of the first social security laws: on the contrary, they multiplied, and became "supplementary". However, although in Germany, as in France, the schemes remained bounded by the company, certain differences were already visible in the two countries. It seems that, in France, workers' participation in the financing of these schemes, sometimes even on a compulsory basis, quickly became relatively frequent, whereas in Germany the rule was, and is, that the employer alone provides the money. This difference has had several consequences. In France, the existence of a workers' contribution was to lead to the creation of "pension funds", and justified the recognition of the worker's right to the promised benefits. The need to guarantee this right led the Government to intervene at the end of the 19th century in order to put an end to

the complete freedom enjoyed by the managers of pension funds. The law of 27 December 1895 was the first of a series of measures taken by the public authorities to regulate the management of pension schemes and supervise the organizations responsible for their management.

In Germany, on the other hand, the employers, being in general solely responsible for the financing of company pension schemes, retained a greater freedom of choice in the matter of management and the scope of benefits. The creation of pension funds, bound to observe the law relating to mutual insurance societies and guaranteeing imprescriptible rights to the worker, remained the exception. The formulae usually adopted enabled the employer to dispose of the funds as he pleased, and to fix the scope of his commitments himself. Consequently, in Germany, the development of formulae inspired, as in other countries, by the paternalistic concepts of the day, was left undisturbed by Government action. No doubt a change was about to take place, but without this having been directed, as in France, by public authorities anxious to canalize a naturally anarchical process by giving it a regulatory, even an institutional framework. On this score, the difference between the two countries is, even today, very striking.

However, several factors militate in Germany against the maintenance of purely paternalistic solutions, in particular the general change in social concepts, the development of labour legislation and the jurisprudence of labour tribunals and, last but not least, intervention by the Ministry of Finance. We shall see that the results of this change are that, although the setting-up of supplementary pension schemes still depends upon the employer's free choice, they are no longer merely matters of charity or company social assistance, because, in most cases, the benefits they confer are guaranteed to the workers by right (Leistungen mit Rechtsanspruch).

Nevertheless, supplementary schemes rarely extend beyond the limits of the company, and they remain outside the scope of collective bargaining between trade unions and employers. Here again, the situation in Germany is quite different from that in France and the Netherlands, where the intervention of the trade unions has facilitated the setting-up of trade, and even inter-trade schemes, and has made possible the introduction of compulsory supplementary schemes; whereas the German schemes are the result of a unilateral decision by

the employer to grant certain advantages to all or part of his staff, under conditions which presuppose loyalty not to the trade or calling, but to the company.

As they come under no general regulations, statutory or agreed, company schemes vary greatly, and one can only give certain common characteristics, examine the main solutions adopted, and evaluate their respective importance, to the extent to which information is available.

SECTION 1

Various types of supplementary pension scheme

The German expression "company old-age assistance" (betriebliche Alterfürsorge)[1] covers all measures taken by the employer for granting pensions to former wage-earners employed by the company, whether in the form of disablement, old-age or survivors' pensions, advantages supplementary to the social security system or even a substitution for this system in cases where certain employees are excluded from old-age pensions because of salary ceilings.

1. THREE TYPES OF FORMULA

These supplementary benefits can be extended to wage-earners by means of various formulae.

(1) Supplementary pensions paid directly by the company

The employer commits himself to his staff, or part of it (workers, clerical staff, management) to pay the benefit in question directly once the contingency arises and the conditions of entitlement are met. This formula is known in German as "betriebliche Ruhegeldverpflichtung".[2] In these cases, the wage-earner

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[1] Some German authors prefer the term "betriebliche Altersversorgung" meaning "company old-age protection", in order to show the difference from traditional forms of assistance. See Helga Graef: "Die betriebliche Altersfürsorge" (Schriftenreihe der Landesvereinigung der industriellen Arbeitgeberverbände, Nordrhein-Westfalen, fascicule No. 14).

[2] See Heissmann, op. cit.

never participates financially: the employer, in order to meet his commitments, may establish reserve funds (Anwartschaftdeckungsverfahren) for which accounts are kept during the beneficiary's period of employment, or may dispense with pre-financing and simply debit the sums paid out against profits when the pensions become due (Deckungslosen Zahlungsverfahren). A third possibility for the employer is to reassure the risk with an insurance company.

In principle, the promise of a pension does not necessarily confer a right on the future beneficiary, because this promise may be accompanied by reservations which go so far as to exclude any right specifically; however, jurisprudence and fiscal legislation seem to have limited the use and scope of such reservations to a great extent.

(2) Company or inter-company funds

These are of two kinds: pension funds (Pensionskassen) and so-called "assurance" funds (Unterstützungskassen).

Pension funds are organizations with a legal personality, and are financed and administered like mutual insurance societies, in that they come under the control of insurance inspectors. They must guarantee beneficiaries the right to benefits. They may either be financed entirely by the employer, or partly by the worker.

Assistance funds are a much more flexible system, which makes them more popular with employers. They have a legal personality (limited company or foundation) but do not come under insurance-inspection control. The financial authorities have renounced their right to control so long as the statutes of the fund explicitly exclude any right to benefits on the part of the workers. In consequence, there can be no financial participation in the scheme by its beneficiaries. In addition, the company may make use of the fund as a loan to itself until the risk covered occurs.

Pension or aid funds can be instituted for the benefit of the staffs of one or several companies. The latter solution is relatively frequent for firms belonging to a konzern, especially in banking, flour-milling and the chemical

industry.[1] There is also the example of a trade fund with a scheme covering an entire industrial sector - the building trade supplementary aid fund (Zusatzversorgungskasse des Baugewerbes).[2]

(3) Recourse to private insurance companies or social security schemes

The employer may also have recourse to already existing organizations, completely independent of his company, in order to ensure supplementary benefits for his staff.

He may address himself to insurance companies, and take out individual policies or group insurance with them. The policy may state that only the employer is entitled to the benefits, so that the worker can only make claims against the employer, on the basis of agreements or collective bargains reached between them. However, the policy may be in the worker's own name, in which case part of the cost may be borne by him.

There are two possibilities in the case of social security organizations. On the one hand there is voluntary supplementary insurance (Höherversicherung), in which contributions supplementary to the statutory ones give rise to supplementary old-age, disablement and survivors' benefits. On the other, there is "continued insurance" (Weiterversicherung) for employees whose salary is higher than the affiliation ceiling for compulsory insurance[3] (DM 21 600 per annum). In this case, the employer can either pay all the contribution or a part only.

In both these cases the insured person has a choice between several classes of contribution. Participation by the employer consequently enables him to choose a higher class.

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[1] See Helga Graef, op. cit., p. 31.

[2] See Annex II.

[3] Continued insurance is only possible if the employee has contributed to statutory insurance for at least 60 months out of a ten-year period.

2. RESPECTIVE IMPORTANCE OF EACH FORMULA

The most recent data are taken from the study on salary structures by the Federal Statistical Office in 1957.[1]

A first indication is given by the frequency of the various types of scheme. It can be seen that:

30% of companies, representing 90% of the labour force, have a scheme of some kind;

19% of companies, representing 57% of the labour force, have a direct payments scheme (without reserves);

15% of companies, representing 40% of the labour force, have a scheme based on the constitution of reserves;

15% of companies, representing 40% of the labour force, have a company fund system;

19% of companies, representing 44% of the labour force, have a scheme which is independent of the company (see item (3) of previous paragraph).

The following points should be borne in mind:

(1) The same company may have several schemes for different categories of staff.

(2) Each scheme may not cover all the staff, so that the figures showing the percentage of the labour force should not be taken as showing the percentage of beneficiaries.

The frequency of the various types of scheme is not sufficient for an evaluation of their respective importance. Their financial weight must also be taken into account, and in this case the picture will seem very different.

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[1] See Dr Franz Spiegelhalter: "Der unsichtbare Lohn - Statistische Durchleuchtung des betrieblichen Sozialaufwands" (Luchterhand Verlag 1961).

[2] Ibid. p. 31, Table 13.

The table below shows annual costs in DM for each type of scheme, expressed:

(a) in terms of workers employed in all the companies covered by the study; and

(b) in terms of workers employed by companies operating the type of scheme shown.

The results are tabled according to company size.

The difference between the two sets of figures are due to the greater or lesser frequency of the schemes considered.

Whether we examine the average cost per employee in all the companies, or in those in which the scheme considered is in operation, the order of importance of the various schemes remains the same.

TABLE 17

Variations in per capita cost according to types of scheme and size of company

(In DM)

Size of company in terms of numbers employed	All schemes	Promises of pensions (direct payment)		Promises of pensions (with reserve funds)		Pension and assistance funds		Other schemes	
		(a)	(b)	(a)	(b)	(a)	(b)	(a)	(b)
20 to 49	57	7	77	28	390	11	150	11	71
50 to 99	80	11	59	39	292	18	126	12	61
100 to 499	147	23	55	75	252	37	109	12	46
500 to 999	229	41	67	108	215	63	120	17	41
1 000 and over	383	98	112	201	343	70	132	14	21
All companies	239	53	94	123	308	50	126	13	31

Source: Spiegelhalter, op. cit., p. 33.

Schemes managed by companies are very much to the fore, with a high preponderance of promises of pensions financed by reserve funds. Then come pension or assistance funds, and finally "other schemes": insurance policies, and continued or supplementary insurance with social security organizations.

The distribution of total costs among the types of scheme is also eloquent:

(i) Promises of pensions: 74%, 52% being backed by reserve funds;

(ii) Pension or assistance funds: 20.5%;

(iii) Other schemes: 5.5%.

The table also shows that the importance of supplementary pension funds, and the position of the various formulae, varies with company size. It confirms the fact, already mentioned in the previous chapter, that average cost increases with company size, and is seven times higher in companies with staffs of over 1 000 than in small firms. This difference is due to the fact that supplementary schemes are less frequent in small companies; it should be noted that, if only companies operating a scheme are considered, the cost per employee is not lower, but often higher, in the small companies than in the large ones.

As regards the respective importance of the various schemes, it can be seen that the preponderance of the system of promises of pensions is certain whatever the size of the company may be. However, in the case of small companies, "other schemes" (insurance policies, etc.) play a larger part, representing about 20% of total costs (as against an average of 5.5%).

The obvious preference of employers for the least institutionalized schemes, with direct underwriting of the risk by the company, is no doubt unfavourable to employees of the small companies, which cannot or do not dare to assume the risk. Nor do the latter seem to have made great use of formulae better adapted to their financial position, such as the institution of multicompany schemes and the taking out of group insurance policies.[1]

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[1] See Heissmann, op. cit. p. 52 et seq.

SECTION 2

Legal basis for supplementary pension schemes and the rights of beneficiaries

1. THE NOTION OF THE EMPLOYER'S "DUTY TO PROTECT" (FÜRSORGEPFLICHT)[1]

It is appropriate to mention here the notion of "the employer's duty to protect", a notion which seems confined to German labour legislation and which, although its legal implications are not always very clear, explains to some extent German thinking about company supplementary pensions.

This concept appears in the German Civil Code, paragraph 618 of which imposes on the employer a "duty to protect" the other contracting party.[2] It has become a principle of labour legislation, and finds its counterpart in the duty of the employee's loyalty towards the employer. The "duty to protect" is made manifest by a series of given obligations,[3] although these do not exhaust the subject. The benefits which the employer promises or grants his staff are generally considered as a fulfilment of this duty. The link between the "duty to protect" and the old-age pensions guaranteed by the company - whatever the type of scheme followed - was definitely established in 1938 by a ruling of the "Reichsarbeitsgericht", and has since been continually upheld by jurisprudence.

The "duty to protect" is not always enough to oblige the employer to grant benefits. This obligation can only result from a decision which the employer is free to take or not, and the right to benefit must be fixed on a solid legal basis. However, once the employer has taken this decision, it appears as an "emanation" of his duty to protect.

One may, of course, wonder what interest there can be in all this subtlety. It seems as though this reference to the employer's "duty to protect" has, in

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[1] See Hueck Nipperdey: "Lehrbuch des Arbeitsrechts", p. 357 et seq.

[2] This was a consequence of the theory of the labour relationship developed in Germany, which tended to attach the rental of services to human rights. See Paul Durand: "Traité de droit du travail", Vol. II, p. 200 et seq.

[3] For questions of industrial safety and health measures, for example.

particular, enabled jurisprudence to select, in the absence of any regulations, certain criteria, and thus provide guidelines for company supplementary schemes. Thus, although the granting of supplementary benefits was, at its inception, a free choice made by the employer, jurisprudence has been able to dissociate it completely from ex gratia benefits (unentgeltliche Leistungen), and refuses to consider a promise of a benefit (Schenkungsversprechung) in terms of the Civil Code (BGB). This distinction is the starting-point for the evolution in jurisprudence - and in practice - whereby the employer's freedom has been gradually curtailed, both as regards the meaning of his promise (especially with regard to separation clauses) and the scope of his commitment. At the same time, it has meant a wide measure of recognition for employees' rights to benefit (Rechtsanspruch).[1]

On the other hand, by giving the employer's "duty to protect" as the basis for supplementary benefits, jurisprudence has appeared to remove from them the character of postponed remuneration (Entgeltcharakter). Most legal writers agree on this point, but some point out, quite rightly, that there cannot be a general rule here, as the parties are free to consider benefits, implicitly or explicitly, as an element of wages.[2]

In any event, the fact that, in most cases, the granting of supplementary benefits is considered to be based on the "duty to protect" is connected with the most usual practice as regards conditions of benefit: i.e. the worker loses all his rights if he leaves the company before reaching retirement age.

2. LEGAL BASIS FOR THE RIGHTS OF BENEFICIARIES

Whatever the type of scheme, workers cannot claim their rights by simply invoking the employer's "duty to protect". Their rights depend upon a duty freely agreed to by the employer, and generally resulting from a contractual or agreed commitment, but may also be based on company usage (Betriebliche Übung) or the application of the principle of equal pay.

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[1] It should be borne in mind that the rules applied by the financial authorities to authorizations for the establishment of reserve funds have played some part in this development; see below, p. 67.

[2] See Heissmann, op. cit., p. 5 et seq.

Contractual (or agreed) commitment

It has already been said that supplementary pension schemes in the Federal Republic are only rarely based on collective bargaining agreements (Tarifverträge). As the latter are generally applicable to an entire industry, they would not be suitable for the establishment of company schemes, and German labour legislation does not recognize "company collective bargaining agreements between the employer and trade union organizations".

The "company agreement" (Betriebsvereinbarung) which is the only possible form of collective agreement at company level, is signed by the employer and the staff as represented by the works council (Betriebsrat), and depends, not upon the law concerning collective bargaining, but that relating to comanagement (Mitbestimmungsrecht).[1]

A pension scheme may be installed on the basis of a company agreement, but it should be noted[2] that pension schemes do not form part of the questions which must, by law, be settled in this way. An employer who wishes to introduce a pension scheme is not therefore bound to use this procedure.

The introduction of supplementary pension schemes (and this includes the decision to have a scheme, the choice of the type of scheme, the type of funds to be used, applicability, risks covered by benefit and rates of benefit) are therefore a matter of "optional" company agreements (fakultative Betriebsvereinbarung).[2]

On the other hand, the law envisages statutory competence[3] for the works council in a certain number of fields, especially as regards the administration of social schemes (Wohlfahrtseinrichtungen): this is the subject matter of statutory company agreements (erzwingbare Betriebsvereinbarung). Thus, the works council is responsible for the administration of pension schemes wherever these give rise to an administrative organization: this is only the case for pension or assistance schemes.

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[1] Law of 11.10.1952, "Betriebsverfassungsgesetz".

[2] See Dietz "Betriebsverfassungsgesetz", p. 562 et seq.

[3] See Dietz, op. cit. p. 512 et seq.

German law does not allow the incorporation of the terms of a collective bargaining agreement and, a fortiori, of a company agreement, into the individual work contract. However, it recognizes the survival (Nachwirkung) of the collective bargaining agreement after its expiry, until a new one is signed; but this is not true for company agreements. In consequence, the terms of a company agreement cease to have any effect on the labour relationship as soon as the agreement is denounced, and the same is true for provisions for pension benefits, with the reservation that workers already drawing a pension are not affected.

We must therefore conclude that, at least in theory, the commitment undertaken by an employer in a company agreement provides a poorer guarantee of permanence than does a contractual commitment.

Although no figures are available, it seems that the latter form is the more widespread. It is subject to variations. It may contain individual promises (Einzelzusage) expressly included in the work contract, or tacitly supplementary to it.[1] However, when the employer intends to include the entire staff, workers and clerical employees alike, in a pension scheme, he usually has recourse of a "pension regulation " ((Ruhegeldordnung) or any equivalent expression), which is brought to the attention of those concerned by means of the factory notice-board. The contractual basis of the commitment results from the express or tacit acceptance of those concerned. The pension regulation is considered to be an element of the work contract.

Consequences of company custom or of the application of the principle of equal treatment

However, in many cases, there are de facto schemes (konkrete Ruhegeld-ordnung) which are not based on any formal commitment by the employer. Jurisprudence has recognized that these schemes can nevertheless confer a right to benefit on the employees, if it has been granted on a permanent basis throughout a certain period and where the employer, when granting it, has not expressly disavowed any commitment on his part. Jurisprudence has simply applied

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[1] This formula seems to be used more particularly in the case of management.

here the general principle of conventional custom as a source of law, while establishing certain criteria adapted to the special circumstances of company pensions.[1]

The same is true of the principle of equal treatment.[2] Here it is a supplementary or special aspect of custom.

No doubt the employer is quite free to reserve the benefits of a pension scheme for one category of staff, or to set up different schemes for each category, but he cannot arbitrarily exclude from benefits one or several workers in a given category, or arbitrarily define the category itself. Jurisprudence has laid particular stress in this connection on equal treatment for male and female workers. In addition, the employer must not discriminate against foreign workers.

3. ANNULMENT OF THE AGREEMENT BY THE EMPLOYER - ANNULMENT CLAUSES (WIDERRUFSVORBEHALTE)[3]

As the employer is quite free to institute a pension scheme, he is also entitled to limit his commitment by including annulment clauses, or even by expressly excluding any right to benefit (Rechtsanspruch).

The inclusion of annulment clauses is especially frequent when the scheme consists of a "promise of pension" (Ruhegeldverpflichtung). Such clauses may also be inserted in the case of an "assistance fund" (Unterstützungskasse), but are excluded from "pension fund" schemes.

These clauses enable the employer either to annul his commitments or to reduce the amount of the promised benefit. A distinction is usually drawn between clauses of a general nature (allgemeine Vorbehalte), and those dealing with conditional annulment (besondere Vorbehalte). In the first case, the clauses exclude "entitlement to benefit", or stipulate that benefit is optional, and may cease at any time. In the second case, annulment is made dependent on

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[1] See Heissmann, op. cit., p. 69 et seq.

[2] See Heissmann, op. cit., p. 76 et seq.

[3] See Hueck Nipperdey, op. cit., p. 437 et seq., Heissmann, op. cit. p. 117 et seq., H. Graef, op. cit., p. 48 et seq.

certain facts (Tatbestände); the formulae, which are fairly general in character, cover the deterioration of the company's economic situation and its ability to bear the cost of benefits; or changes in social legislation or in fiscal rules concerning company pension schemes.[1]

While the employer is free to insert such clauses and to choose their wording, labour tribunals have, in their jurisprudence, fixed fairly narrow limits to the use that can be made of them. In the case of "clauses of general application", the tribunals seek to determine whether the formula allows for discretionary annulment (nach freiem Belieben) or only for annulment "after equitable consideration" (nach billigem Ermessen). Even in the first case, the employer may not resort to arbitrary methods or contravene the law, but the onus of proof lies with the worker. In the second case however, the employer must show that his decision has been equitable, should it be contested. Jurisprudence has denied the employer the right to proceed with a "discretionary" annulment against workers already in receipt of a pension, or those due for retirement.

On the other hand, jurisprudence had admitted, in some circumstances and in a very restrictive way, that the employer might denounce his commitments or reduce the benefit promised, even if no annulment clause had been inserted (Widerruf ohne Vorbehalt). This occurs when the worker or pensioner is guilty of a serious breach of the duty of loyalty (Treuepflicht) or when the company is in a perilous economic position (erheblich wirtschaftliche Notlage).

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[1] As an example, the following are the texts of "typical clauses" (Muster vorbehalte) to which fiscal legislation refers in determining to what extent the existence of annulment clauses leads to the loss of fiscal advantages for companies which set reserve funds for financing supplementary pensions (for the fiscal aspect see p. 67): "The firm reserves the right to stop benefit or to reduce the amount of the promised pensions (1) if the company's economic position deteriorates lastingly so that the payment of the promised benefits can no longer be expected of it (nicht mehr zugemutet werden kann); (2) if important changes are introduced with regard to the applicability, contributions, benefits or retirement age laid down by social security legislation or any other assistance scheme giving rise to entitlement to benefit; (3) if the legal system, and especially the fiscal system applied to the costs incurred by the company for ensuring systematic (planmässig) financing of benefit is so modified that the maintenance of the promised benefit can no longer be expected of it; (4) if the beneficiary acts in flagrant contradiction with his duty of loyalty (Treue und Glauben) or which would have justified his dismissal without notice".

To sum up, there seems to be no doubt that labour jurisprudence has mainly tended towards a greater entitlement to benefit and that, without questioning the complete freedom of the employer's decision with regard to the institution of a company pension scheme, it has attempted, once a commitment has been made, to limit its modification as far as possible.

SECTION 3

Financing - Effects of fiscal regulations

It has already been said that participation by the worker in the financing of pensions schemes is the exception. Besides, it is only possible where the scheme takes the form of a pension fund, a group insurance policy or a continued insurance policy with a social security organization.

In general therefore, it is the employer who bears alone the cost of the schemes which he himself has taken the initiative in introduction. The "promise of pension" scheme, where the company insures itself, is by far the most important as regards the distribution of total costs according to types of scheme.[1] In this case, the company usually constitutes a reserve fund, and these funds may, in certain circumstances, be granted fiscal exemption. Consequently, the evolution of fiscal regulations and jurisprudence in these cases has had a preponderating influence on the evolution of company pension schemes.

In the first place, as soon as fiscal law authorizes the deduction of sums corresponding to the reserve fund from taxable profits, and when these reserves are purely a matter of accountancy, and do not involve any transfer to an autonomous fund, the institution of a pensions scheme becomes an interesting operation for the company itself. It has even been asserted that "the billions which have been put, in this way, at the disposal of companies have played a large part in the reconstruction of the German economy, when the great problem was capital supply".[2] In any event, there can be no doubt that these advantages

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[1] See above, p. 58.

[2] See Heissmann, op. cit., p. 6.

have worked in favour of the development of company pension schemes, and have led employers to prefer formulae which included these advantages. Nor is it surprising that "pension funds" are so unusual.

However, the financial authorities could not put their complete trust in the companies, and they were inevitably obliged to impose certain conditions on the granting of fiscal advantages, which depended on the legal value of the employer's commitment. As the authorities have become increasingly strict on this point, they have also helped to consolidate workers' rights.

Thus, according to a sentence of the Federal Court of Finance (Bundesfinanzhof) of 22 January 1958, reserves can only be exempted from tax if the employer's commitment is a contractual or agreed obligation. The employer cannot base himself on company custom, and, if he wishes to constitute reserves during the whole period of the constitution of rights to benefit (Anwartschaftrückstellungen) he must enshrine this custom in a contractual commitment.

Fiscal practice has played its most important part in the matter of the employer's ability to annul his commitment. The Federal Court of Finance considered that the existence of an annulment clause enabling the employer to take an arbitrary decision deprived him of the right to constitute reserves. The same is true for all formulae of the kind: "benefit may be withheld" (die Leistungen sind wiederruflich), "benefit is freely granted" (die Leistungen erfolgen freiwillig), "pensions will be paid until further notice" (die Ruhegelder werden bis auf weiteres gezahlt). If the formulae are less stringent, and only authorize annulment on the basis of "an equitable consideration" (nach billigem Ermessen), the authorities may impose a reduction in the amount of reserves. It refers, in this case, to an admissible typical clause:

"The company reserves the right to reduce or suspend benefits if the conditions prevailing at the time when the promise of pension was made undergo lasting change of such a kind that the company cannot be expected, even after

objective consideration of the interests of beneficiaries, to continue paying the promised benefits".[1]

Any formula differing substantially from this, except in the direction of greater stringency, is considered as "steuerschädlich" (literally "fiscally objectionable") and can lead to the removal or reduction of tax exemption on the reserves.

As regards conditional annulment clauses (besondere Vorbehalte) the same distinction is made between "objectionable" and "unobjectionable" formulae by reference to a "typical" clause.[2]

It therefore seems clear that the financial authorities only allow the constitution of reserves for promises of pension leading, in the eyes of the labour laws, to a right (Anspruch) that is sufficiently consolidated (gefestigt) for the worker to be able to count with certainty on the promised benefits. In practice, the employer is obliged to make a valid commitment with regard to the labour laws, because, when he institutes a company pension scheme, he wishes to take advantage of the fiscal exemptions on the constitution of reserves, and he can only do so under present fiscal regulations if he makes a legally valid commitment to pay over the benefits.[3]

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1 "Die Firma behält sich vor, die Leistungen zu kürzen oder einzustellen, wenn die bei Erteilung der Pensionszusage massgebenden Verhältnisse sich nachhaltig so wesentlich geändert haben, dass der Firma die Aufrechthaltung der zugesagten Leistungen auch unter objektiver Beachtung der Belange des Pensionsberechtigten nicht mehr zugemutet werden kann." See Heissmann, op. cit., p. 278.

2 See above, p. 66, footnote 1.

3 See H. Graef, op. cit., p. 65.

SECTION 4

Benefits

1. RISKS COVERED

The term "Altersversorgung" ("old-age assistance") not only covers old-age pensions, but also survivors' and disablement pensions. However, these risks are not always included in company schemes. The number of benefits provided, the conditions of cover and the amount of benefit depend upon the employer's free choice.

We do not have any general statistics on this subject, but some indications are to be found in a study of industry in Hesse made in 1956.[1] As this study is already an old one, and as its scope was geographically limited, the figures have only a relative interest, but they make it possible to detect a certain number of general characteristics, which may well remain valid. The study only dealt with two types of pension scheme, welfare funds and promises of pension (with or without reserve funds).

TABLE 18

Risks covered by supplementary pension schemes

Types	Welfare funds	Promises of pension
Scheme including:		
Disablement pension	89	67
Widow's pension	80	85
Orphan's pension	62.5	31

[1] See Franz Spiegelhalter: "Zum Leistungsaufbau der betrieblichen Altersversorgung" in "Der Arbeitgeber" 1958, pp. 582 and 648.

As the table shows, the two types of scheme include, in most cases, a widow's and a disablement pension. Orphan's pensions, on the other hand, are less usual, especially in "promises of pension" schemes.

The same study also gives interesting details about conditions of grant and methods of calculating benefits.

2. CONDITIONS FOR THE GRANTING OF BENEFIT

Age: In general, retirement age is fixed at 65, and in some cases at 60 for women. If no provision exists, the age laid down by social security legislation, i.e. 65, is automatically applicable.

Service: German schemes are fairly strict as regards length of service. In general, a period of five to ten years with the company is required, but the period may be as long as fifteen to twenty years (Table 19).

TABLE 19

Years of service with the company needed for acquiring pensionable status

Years of service	Welfare funds	Promises of pension
Less than 10 years	13	29
10 years	35	37
15 years	27	22
20 years	25	12

Cessation of activity: It is normal for pensions to be paid only to those who have ceased their activities. If the person entitled to a pension continues to work, either for the same company or for another one, pension rights are suspended.

Finally, in most cases, entitlement to a pension is subject to a condition which is characteristic of German company schemes: the beneficiary must be in

the service of the company when the pension becomes due. In other words, a worker who leaves the company, even after working the required years of service, but before reaching retiring age, loses all his rights. This condition is usually set out explicitly in pension agreements or regulations, but jurisprudence has decided that it is implicit unless any contrary provision has been made.[1] The worker loses his rights whatever the reason for which he has left the firm, be it on his own initiative or on account of dismissal, provided of course that there has not been unlawful dismissal. Naturally, the dismissal must not have been provoked by the employer's desire to evade his obligations, but the onus of proof lies with the worker. Jurisprudence has also agreed that pension rights must be maintained where the worker has left the company because of an industrial accident or an illness contracted on account of his work.[2]

3. METHOD OF CALCULATING BENEFIT

The formulae used vary greatly. The above-mentioned study includes twenty typical solutions.

These may be divided into two groups:

Group A: Formulae by which the amount of the pension depends on the wage earned.

Group B: Those in which pensions are for fixed amounts, without direct reference to wages.

Each of these groups can be subdivided.

In Group A, certain formulae use two elements for calculating the amount of the pension: a basic sum and a supplement. We can therefore distinguish systems where only one element of the pension is calculated with reference to wages from those where the whole pension, whether it consists of one or two elements, is calculated with reference to wages.

Similarly, in Group B, the pension may consist of two elements: a basic sum and a supplement per year of service, for example; or of a single element: a uniform sum, or one varying with seniority.

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[1] See Heissmann, op. cit., p. 108.

[2] This only applies when the scheme does not include disablement benefit.

Always with reference to the same study, it seems that, for the two types of scheme under consideration (welfare funds and promises of pension), two-thirds of the formulae fall into Group B, i.e. where the calculation of the pension takes no account of wages.

On the other hand, length of service is taken into account by most schemes (81% of assistance funds, 84% of promises of pension), in Groups A and B alike. There are usually supplements per year of service from the tenth or fifteenth year onwards, up to the fortieth or fiftieth year. These supplements may be expressed as a percentage of wages or as a fixed sum.

Finally, certain unusual formulae provide for a variation in the size of the pension (or of one of its elements) depending on the wage-bracket, with a fixed sum corresponding to each annual wage-bracket.

As for survivors' pensions, they always consist of a fraction of the direct pension, the widow's pension being fixed at 50% (in almost all welfare funds and in two-thirds of promises of pension) or, more rarely, at 60% of the direct pension. Orphan's pensions vary from 10 to 30%.

SECTION 5

Supplementary and statutory pensions

The statutory pensions scheme, as reformed in 1957, guarantees a theoretical benefit, at the age of 65 and after a normal 40 years' service, of 60% of the last gross wage earned. This percentage may in fact vary, depending on the ceiling set for the wage in question and the relationship between the last wage earned and the general basic wage (allgemeine Bemessungsgrundlage).[1]

The reform of 1957 introduced a considerable improvement in the guaranteed level, so that people wondered at the time whether supplementary pensions schemes

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[1] This is the average gross wage, subject to contributions, for all insured persons during the three calendar years preceding that of separation. For the purposes of calculating the pension, it is subject to an individual coefficient expressing the average relationship, for each of these years, between the pensioner's wages and the general basic wage.

had not lost their reasons for existence, which had been to ensure former company workers a minimum pension by adding to the small amounts allotted by the social security fund. For example, the statutory average pension of 30% was made up by a supplement of about 20%. In referring to the above-mentioned study, which was made in 1957 itself, we can see that this rate of 20% was usual. However, it corresponded, in the case of assistance funds, to the highest limit (fifty years with the company), whilst for promises of pension this figure could be reached with a seniority of 10 to 15 years, and was greater by 25% to 30% for those with '40 to 50 years' service.

However, it does not appear that the 1957 reform, and the higher statutory pensions resulting from it, led to a "slump" in company pension schemes. Their aim merely shifted, as did that of legislation, because of a change in social concepts: henceforth, collective guarantees were not intended to provide pensioners with a minimum income only, but to maintain their standards of living.

In consequence, the margin allotted to company schemes now depends on the level of overall protection (Gesamtversorgung) which it is thought appropriate to guarantee; in other words, the percentage of former income which statutory and supplementary schemes must provide in order to prevent there being any considerable reduction in living standards.

This percentage is generally taken as 75% for a whole working life.[1] It seems that "in practice" many companies adhere to this figure, at least for workers with many years of service. The following progression has often been observed with regard to overall cover:[2]

Less than 10 years' service	65%
From 10 to 20 years' service	70%
From 20 to 30 years' service	75%
From 30 to 40 years' service	80%
From 40 to 50 years' service	85%

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[1] See Heissmann, op. cit., p. 13; H. Graef, op. cit., p. 76 et seq.

[2] See Heissmann, op. cit.

Supposing that the worker has performed a complete career from the viewpoint of the social security legislation, entitling him to a pension equivalent to 60% of his final wage, the company pension will be somewhere between 5 and 25% of that figure.

Even supposing, in the absence of any statistical data, that such rates are effectively guaranteed by many company schemes, it must not be thought that German workers in general enjoy total pensions corresponding to the above figures. As stated earlier, not all workers are entitled to a company pensions scheme. In addition, many of them lose their entitlement, either because they do not fulfil the conditions of minimum seniority required within the same firm, or because they leave the company's service before reaching retiring age. It is, in fact, very unusual for there to be coordination between one scheme and another, although there are a few cases, especially in the metalworking industry, where the "typical pension regulations" (Musterpensionsordnung) takes account of periods worked for other companies in the industry with analogous pension schemes.

This absence of coordination, a result of the principle of loyalty to the firm which has inspired German supplementary schemes, no doubt reduces the importance to be attached to these schemes in any appreciation of the overall effective guarantee extended to pensioners. Although in Germany, as in France, they are mentioned in connection with a second "stage" of social security, the gap between the benefits from supplementary and statutory schemes is still great in the former, and very small in the latter.

The drawbacks inherent in company schemes of the German type, with regard to the mobility of labour, cannot be passed over in silence.

These drawbacks apply to all categories of staff, and are especially apparent in the case of management, where the statutory pension never reaches 60% of the final salary. This figure is further lowered by the ceiling for the salary concerned (DM 1 100 per month).

Furthermore, there is the affiliation ceiling of DM 1 800 per month, in force since 1 July 1965. Once this salary is reached,[1] the person concerned may,

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[1] It is estimated that at least one million employees draw a salary higher than the affiliation ceiling. See Heissmann, op. cit. p. 14.

if has been statutorily insured for over 60 months, become a voluntary subscriber, the contributions being entirely at his own expense; but even then he can only contribute on the basis of that part of his salary which is lower than the DM 1 100 ceiling.

As a result, the company pension is not a supplementary one, but the main pension - indeed the only one, in certain cases.

If we are to believe a report presented to the Fifth Congress of the International Management Confederation in 1964, only 50% of top management[1] is insured, and therefore entitled to a statutory pension, whereas 75% of them will receive a company pension upon retirement. To quote from the same report again, the benefit resulting from a company promise of pension varies from 40 to 50% of the final salary, after 25 years of service.

Loss of pension rights as a result of changing one's employment may seriously jeopardize the living standard of a manager after retirement, especially if he has reached a certain age. In practice, of course, the new employer, eager to acquire the services of a valued staff member, will make a promise of pension which more or less compensates for the lost advantages. This practice is certainly rife at present, owing to a shortage of management, but one may wonder what would happen if the labour market became less tight.

CHAPTER II

Supplementary pensions schemes in France

Although supplementary schemes are not limited to the sphere of old-age pensions, it is there that their social impact is the most considerable, particularly because of the insufficient guarantees provided by social security legislation.

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[1] This corresponds to the German concept of "leitende Angestellte", which is more restrictive than the French notion of management. Top management would account for about 200 000 persons (Report of CIC Vth Congress).

However, Parliament has not wished these supplementary guarantees to escape from any form of regulation, and has therefore limited the choice to a certain number of formulae, each of which has its own rules.

To begin with, there is the "mutual society",[1] although this does not play a great part in old-age insurance. In addition, its action corresponds more closely to individual insurance than to the definition of a supplementary scheme which we have adopted. Mutual societies consist of groups which collect subscriptions from their members and use this money for members' benefit and that of their families by insuring them against social risks and paying any resulting damages (Article 1 of the mutual society rules). They are based on voluntary, individual membership, and are mainly financed by members' contributions. However, there are also "company mutual societies", which receive financial support from the employer or the works council, and this aid is generally equivalent to the members' subscriptions. In such cases, the reality is a "supplementary scheme" as we have defined it.

These company mutual societies may act in the matter of pensions, either by recourse to the National Assistance Fund, or by setting up an "autonomous mutual society fund". The latter provide retirement or old-age pensions, either through the system of capitalized individual accounts, or that of distribution from a common fund.

It would seem that company mutual societies have little to do with pensions, and are mainly concerned with supplementary sickness benefit, where they are entitled by law to share this field with the National Assistance Fund and private insurance companies.

The chief role with regard to supplementary pensions is reserved for the "assistance institutions" governed by the decree of 8 June 1946.[2] These rules concern "institutions" of all kinds, including all or part of the staff of one or several companies which, either by means of a collective bargaining agreement or

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[1] See "La Mutualité - Liaisons sociales", special issue of 28 February 1958.

[2] According to Order of 4.10.1945, concerning the organization of the social security system.

of individual contracts, extend advantages to wage-earners supplementary to those granted by the social security scheme in the fields of savings, a capital payment at retirement or death, old-age pensions, disablement pensions, benefits in cases of industrial accident, and widows' and orphans' pensions.

These regulations concern:

(a) Institutions which grant benefits laid down and guaranteed by the firm or firms concerned;

(b) Institutions whose benefits may be reviewed if the funds available are insufficient to meet the calls on them;

(c) Institutions the benefits of which are directly and exclusively provided by the National Assistance Fund, or by an insurance company;

(d) Associations, unions or federations set up among these institutions in order to compensate their costs or provide security for their commitments.

It is also applicable where the scheme introduced is completely financed by the employer.

The establishment of such institutions requires an authorization from the Minister of Labour and Social Security. In order to obtain this, the statutes must conform to the following rules:

(i) The board of management must include equal numbers of employers and employees;

(ii) The statutes must include all necessary information about the duties and privileges of members, and the rights of wage-earners who leave the institution. In this case, they must in any case be entitled to reimbursement of their contributions.

Finally, retirement institutions are subject to financial control by the public authorities, and must respect certain rules about investing their funds, half of which, at least, must be in Government or Government-guaranteed stock. First-mortgage loans on housing owned by the company for which the staff work may be granted to the latter, up to a third of the market value.

Such, then, is the framework of the regulations within which supplementary pensions schemes operate. They are almost all schemes which follow the

distribution system, according to the management or UNIRS models, to which the present study will be confined.

However, something must be said about the general structure of this complicated network of supplementary pensions schemes.

If we begin with wage-earners in industry and commerce (sectors represented on the French national employers' council), we find three categories:

(1) The management scheme, based on the agreement of 14 March 1947, and consisting of 70 institutions (on 1 July 1965), linked by a "federation" - the AGIRC.

(2) Schemes for non-management wage-earners: here the structure is more complicated. The agreement of 8 December 1961, making supplementary schemes compulsory for these categories, did not really establish a scheme, but laid down minimum conditions for any scheme, and this agreement is therefore put into practice by a number of schemes, the most important of which is UNIRS. The institutions or federations of institutions which apply the agreement are united within an association called ARRCO (Association des régimes de retraites complémentaires (Association of supplementary pensions schemes))

(3) Finally, there are the special schemes for foremen (agreement of 28 March 1962) and for commercial travellers, representatives and agents.

Outside industry and commerce, there are certain supplementary pensions schemes of a "special" nature. They concern agriculture, banking, mining, air transport, the Press, insurance companies and the public sector (Government employees, whether civil servants or not).

In all, over 8 million wage-earners are covered by a supplementary pensions scheme. About 2.5 million more are not covered at all.

SECTION 1

Supplementary pensions schemes for wage and salary earners

1. A STATUTORY SUPPLEMENTARY SCHEME

Since the agreement of 8 December 1961, and the Ministerial endorsement given to it, all businesses within its scope had to affiliate, after 1 January 1962, their wage-earning staffs to an institution operating a supplementary pensions scheme on a distribution basis, authorized by the Minister of Labour (Art. 1).

Consequently, the affiliation of companies to a supplementary pensions scheme was made statutory. This was already so before 1961 in certain professions or regions, and the UNIRS scheme began as an optional one, put at companies disposal by the firms which organized it in 1957. It soon, however, became statutory, as the result of numerous trade or regional collective bargaining agreements. Other schemes, introduced at occupational level, were statutory from their inception, while certain inter-occupational schemes, once optional, became statutory as a result of collective bargaining.

The purpose of the 1961 agreement was not to institute a single supplementary pensions scheme, imposing a uniform set of rules on all companies and beneficiaries, and guaranteeing a single level of benefit backed by a single financial and administrative unit. Its aim was to generalize the obligation to belong to a distributive supplementary scheme, fulfilling certain conditions, especially as regards the minimum contribution (Article 1 of Annex I).

Companies were thus free to join the institution of their choice and to select from among the various schemes in existence. This flexible solution was deliberately chosen by the signatories to the agreement of 8 December, who could have imposed the UNIRS scheme introduced by they themselves four years earlier.[1] But this freedom of choice was limited to a six-month period (1 January 1962 to 1 July 1962), after which companies that had not fulfilled their obligations under the agreement were to join an institution belonging to the UNIRS. However,

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[1] See Veillon "L'accord du 8 décembre 1961" - Droit social - July-August 1962.

companies engaged in a trade for which, before 1 July 1962, a collective bargaining or other agreement had provided for the obligation for the whole staff, or part of it, to belong to a retirement scheme corresponding to the conditions set forth in Article 1, were to remain bound by this (Article 2).

Another essential element of the 1961 agreement, Article 7, Annex I, provides for the establishment of an association of institutions responsible for distributive supplementary pensions schemes for wage-earners, in order to ensure the continuation of the schemes, and to promote the appropriate coordination and compensation arrangements between them. This association was set up on 22 March 1962, with the title of Association des régimes de retraites complémentaires (ARRCO).[1]

Among the various schemes in force, the UNIRS has a privileged position from the standpoint of numbers of persons insured with it.[2]

The scheme operated by these institutions is in fact the "model" for wage-earners' supplementary pensions schemes. Consequently, and because it would be impossible in a report of this kind to give details of all schemes and institutions, we shall chiefly refer to the UNIRS scheme.

2. UNIRS (UNION NATIONALE DES INSTITUTIONS DE RETRAITE DES SALARIES) (NATIONAL UNION OF WAGE-EARNERS' SUPPLEMENTARY PENSIONS INSTITUTIONS)

The 1958 agreement which founded the UNIRS was not an attempt to substitute a single organization for the various supplementary pensions institutions: it proposed to companies, groups of companies or other bodies the adoption of a scheme, pensions regulations, and membership of one of the pensions institutions federated within the UNIRS. Thus the latter is both a scheme and a federation of the organizations responsible for administering that scheme.

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[1] On 31 December 1964, ARRCO had nine member institutions, covering 6.5 million wage-earners.

[2] On 31 December 1964, the UNIRS had 3 205 000 contributors, and the national building trade pensions fund (CNRO), which is associated with UNIRS, had 1.6 million. Thus the UNIRS/CNRO group represents 73% of ARRCO membership.

These institutions, of which there were 50 in December 1963, vary both in scope (national, regional, occupational, inter-occupational) and in the size of their membership (from a few thousand to several hundred thousand).[1] Their task is to receive contributions, kept account of members' "points" and pay out pensions. They may run supplementary pensions schemes (in addition to the UNIRS scheme) and possibly other schemes (guaranteeing benefits other than pensions).

Their organization must be in accordance with model statutes established by the governing council of the UNIRS, and they are subject to control by that organization.

The attributes of the UNIRS are thus considerable: it is responsible for interpreting the rules, taking the necessary steps for applying them, and for changing them if the need arises. It is also responsible for compensation of costs and contributions between member institutions. In short, it ensures the technical management of the scheme (Article 3 of the regulations).

UNIRS is administered by a joint council[2] under the control of the general assembly, attended by representatives of all the institutions (each of which is administered in its turn by a joint council).

Financial management is not ensured by the member institutions or by UNIRS. Article 3 of the regulations stipulates that it is to be undertaken by life assurance organizations or by the national assistance fund, on the basis of a convention concluded on the one hand, between the institutions and UNIRS and, on the other, with the insurance organization. This convention must be in accordance with a model drawn up by UNIRS.

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[1] See J. Genevray, article previously quoted - Droit social - July-August 1962.

[2] This council consists of 24 members, 12 representing companies affiliated to the member or associate institutions, and 12 representing the participants (contributors and pensioners) in these institutions. In each of these colleges, members of the Council are as follows: half elected by the general assembly (6 company and 6 participant representatives), and half nominated (6 company representatives nominated by employers' organizations, and 6 participants' representatives nominated by the trade unions most representative at national level of the categories of staff represented in the scheme, each of which nominates two members) (Statutes, Art. 8, paragraphs 1 and 2).

The funds entrusted to the insurance companies under the title of "collective fund" are made up of the annual difference between contributions and expenses in the scheme, and are thus the scheme's reserve fund.

3. FINANCING OF SUPPLEMENTARY PENSIONS SCHEMES

(a) The 1961 agreement established a minimum subscription

The obligation to introduce a supplementary pensions scheme is accompanied by conditions for the minimum contribution towards the financing of the scheme. Article 1 (Annex I) states that affiliation (to a pensions scheme) must take the form of a contractual contribution amounting (employer's and worker's share together) to at least 2.5% of the combined pay of all wage-earning staff, with an individual ceiling equal to three times that laid down by the statutory social security system.[1] Article 3 stipulates that collective agreements can settle the methods of implementing Article 1, especially as regards the rate of contribution. "This clause leaves a wide margin of initiative and flexibility ... Trade union action remains possible at company, regional or national level for a whole sector of activity".[2]

However, an agreement of 18 November 1965 standardized contributions as follows:

(a) From 1 January 1966, pensions are calculated at a uniform rate of 4%.

(b) From 1 January 1967, all companies must contribute at a rate of 4%.

The result has been a revaluation of all supplementary pensions calculated at a rate lower than 4% and already paid out.

Revaluation percentages are as follows; pensions calculated at a rate of:

2.5% are revalued by 60%
3% are revalued by 33.33%
3.33% are revalued by 20%
3.5% are revalued by 14.28%

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[1] In 1963 the monthly social security ceiling was FF 870, so that the supplementary pensions ceiling was FF 2 610.

[2] See Ch. Veillon, article already quoted.

The agreement of 18 November 1965 applied to all member schemes of ARRCO.

Some branches of activity, chiefly the retail trade, obtained further postponements after 1 January 1967 for applying the 4% rate.

Before the agreement of 18 November 1965, the rates of contribution practised by UNIRS were a minimum of 2.5% and a maximum of 4%, the matter being defined by Article 10 of the regulations: "Contributions are based on the gross wage giving rise to the employer's contribution, as laid down in Articles 50 et seq. of Annex III of the general taxation code."

However, the fraction of the wage greater than three times the annual ceiling of wages subject to social security contributions was exempted from contribution.

The annual social security ceiling being fixed on 1 January 1966 at FF 12 960, the ceiling applied by UNIRS and by supplementary pensions schemes in general was FF 38 880, which is identical with that defined by the agreement of 8 December 1961.

From 1 January 1967 onwards, the contribution will be a uniform 4%, 60% of which is at the employer's expense and 40% at that of the employee.

Before the conclusion of the agreement of 18 November 1965, a company could increase its rate of contribution (generally at the end of a five-year period) but in no case could it reduce it.

When a national or regional collective bargaining agreement fixes a rate of contribution, there is nothing to prevent a regional or company agreement from fixing a higher one.

Statistical tables published by UNIRS after its general assembly of 15 December 1965 showed that for 3 249 million contributors (CNRO excluded) and for 190 000 companies, the average rate was 3.51%, without taking account of the RSRS (over 4%).

Distribution of participants by contribution rate is as follows:[1]

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[1] UNIRS Bulletin No. 30, January 1966.

TABLE 20

Rate	December 1960	December 1963	December 1965
Rate of 2.5%	21.6	22	20.61
Rate of 3%	12.5	8	6.97
Rate of 3.33%	17.2	13.6	12.26
Rate of 3.5%	5	6.5	5.65
Rate of 4%	46.3	49	54.51

The average contribution rate on 31 December 1962 varied according to sectors of activity between 2.93 and 3.84% (average rate for participants).[1]

It appears therefore that the natural trend of the scheme would have brought it to an average very close to 4%.

This 4% rate gives a pension of about 20% of the average wage after 35 years of service, with a yield of 14.65%. This was the trade union aim as fixed when UNIRS was established.

Companies wishing to apply a rate of over 4% may join a supplementary scheme called RSRS (Wage-earners supplementary pensions scheme). The scheme is managed by the same institutions as the UNIRS scheme, but gives rise to a separate cost compensation mechanism.

Of 50 UNIRS institutions, 37 are members of RSRS:

Companies (members)	3 500
Contributors (participants)	125 000
Beneficiaries	36 000

The 37 institutions belonging to RSRS practise compensation of their costs among themselves, but as the scheme is financially autonomous, they have to look carefully at its balance by judiciously selecting new memberships and strictly applying weighting rules.

[1] UNIRS Bulletin No. 22, January 1964, General Assembly of 12 December 1963.

4. THE BENEFICIARIES

The 1961 agreement covers all wage-earners, workers and clerical staff combined, aged between 21 and 65, excepting management; wage-earners in concerns with a special social security system (e.g. railwaymen, coalminers, agricultural labourers); and, temporarily, commercial travellers and persons working at home.

The UNIRS scheme provides for a "probationary period". The worker can only become affiliated once he has been with the member company for a continuous period of six months or a year (at the discretion of the company or the signatories of the collective bargaining agreement). Membership takes effect fr the first day of the work contract or the 21st birthday of the person concerned. Contributions are due retroactively at the end of the probationary period.

The general assembly of 15 December 1965 changed this rule, made the probationary period optional and set it at one month.

5. BENEFITS: EXAMPLE OF UNIRS

(a) Conditions of grant

Age: Article 17 of the UNIRS regulations fixes the normal age for the enjoyment of a pension at 65. However, pensioners may ask for postponement or, after 60, anticipation of this date. In the latter case, the pension points credited to their accounts are reduced by a maximum of 22% (retirement at 60). In the case of disablement from work recognized by the social security authorities, the pensioner may draw his benefits, at his request, from the age of 60 onwards, without any deduction.

Cessation of activity: In principle, payment of an old-age pension depends upon the proof by the pensioner that he has ceased to work. However, if he continues his activity on a reduced scale, he may accumulate the pension and the wage he receives for this work.

Special conditions for the validation of the services of former employees: Forme employees, who left a company before it joined the scheme may, in certain circumstances, obtain the validation of their past services with a view to

obtaining a pension: they must be able to justify employment with the company for a continuous period of at least six months between the ages of 21 and 65.

(b) Amount of pension

The UNIRS scheme, like that of management and almost all present-day pensions schemes, uses a system of "pension points", according to which the pension paid is equal to the product of the points acquired by the pensioner in the course of his working life multiplied by the value of each point, is fixed annually.

(1) Number of pension points[1]

The number of points acquired in a year is obtained by dividing the contributions paid into the pensioner's account by the "reference wage". This term may lead to confusion. It is a conventional figure showing the amount of contribution which gives the right, in any one year, to a pension point.

The "reference wage" is fixed each year by the governing council of UNIRS in the light of the movement of wages, and in such a way that a constant number of points shall be attributed each year to the average wage.[2]

The point is therefore an accounting unit which makes pension rights independent of variations in the value of money, so that the number of points accumulated over the years can be added together validly.

(2) Validation of past services[3]

The UNIRS scheme is most liberal over the validation of past services, be the services rendered before the existence of the scheme (which began on 1 January 1958) with member company, services during the period between the creation of the scheme and the company's joining it, or services with a defunct company.

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1 See UNIRS Bulletin No. 20, July 1963 "Salaire moyen, salaire de référence, point de retraite et valeur du point".

2 The average wage is the annual wages of the group of contributors.

3 See Jurisclasseur de la sécurité sociale, fascicule 813.

For the period before 1958, the calculation of the points to be attributed to the beneficiary for each year of service is based on the average monthly wage received during the last three years eligible for validation, from which is deducted, by applying a fictitious contribution of 1%, a reference average (average number of points acquired per annum for a contribution of 1%). The number of points attributed per annum is obtained by multiplying this average by the contribution rate chosen by the company on joining the scheme.

For the period after 31 December 1957, valid services give the right to the attribution of a number of points equal to what would have been entered into the person's account has the company joined on 1 January 1958.

(3) Validation of periods of disablement

A wage-earner who is laid off work for reasons of sickness, maternity or accident for a period of more than three months, is entitled to free points from the beginning of his disablement until the age of 65. The number of points acquired is based on the average monthly number of points which the participant acquired during the year preceding the interruption.

In order to be entitled to free points, the participant must be working for a member company and in a staff category mentioned in the company's application for membership, at the time of being laid off for sickness, maternity or accident.

(4) Value of points

The value of points is fixed annually by the governing council of UNIRS for the period between 1 October and 30 September of the following year.

The retirement pension is equal to the product of the number of points acquired multiplied by the value of a point for the current year.

UNIRS determines the value of points in such a way that the contributions received (minus administrative expenses) are distributed in accordance with the number of points to be covered in the course of the succeeding ten years.

(5) Increases

The pension resulting from the points acquired can be increased in certain ways:

(a) Increase for age: beneficiaries born before 1 April 1886, or their survivors, are entitled to a points increase of 20%;

(b) Increase for seniority: wage-earners who, on reaching 65, have served for at least 20 years with the same company, receive an increase of 5% for the points they have acquired while serving with that company;

(c) Increase for dependent children: participants, or their surviving spouses, are entitled to increased points for each dependent child under 20 years of age. This increase is equal to 10% of the number of the participant's points, which may be increased further by reason of age or seniority (5% for 20 years' service with the firm).

(c) Survivors' rights

(1) Widows

A participant's widow is entitled to a pension on the basis of 60% of her husband's points.

Increases for age and seniority are taken into consideration.

This entitlement begins:

(i) Either on the first day of the quarter following the death of the participant if the widow is less than 50 years old on that date, or is disabled within the meaning of the social security acts, or has two dependent children under the age of 20 (or older if the allowance for sick or incurable children over that age has been continued);

(ii) Or on the first day of the quarter after her 50th birthday or the date when her disablement was recognized.

(2) Widower

The widower is entitled to a reversion pension calculated on the basis of a number of points equal to 50% of those acquired by his wife, which may be increased for age or seniority.

This entitlement begins:

(i) Either on the first day of the quarter following his wife's death if he is at least 65 or unable to work;

(ii) Or on the first day of the quarter following his 65th birthday or the date when his sickness or disablement was recognized.

In order to obtain the pension, the widow (or widower) must prove that the marriage took place at least two years before the spouse's death; this condition does not apply where death was due to an accident occuring after marriage; and that the remaining spouse has not remarried. In the case of remarriage, the reversion pension ceases on the first day of the next quarter.

(3) Orphans

Each orphan under age is entitled, until his majority, to a pension based on 30% of the participant's points, which may be increased for age and seniority. The same pension is due to orphans who, before coming of age, were unable to pursue remunerative employment as a result of chronic sickness or infirmity, and who were still dependent on their remaining parent at the time of the latter's death. Orphans who have lost both parents are entitled to a pension after their majority if they are disabled. Orphans cease to be entitled at 21 if they are in receipt of a pension or allowance because of their disablement, or if their disablement ceases.

SECTION 2

Supplementary pensions scheme for management[1]

As stated previously, management was the first to benefit from a compulsory supplementary pensions scheme. For these categories of salaried workers, the pension they could draw from the social insurance system, to which their affiliation was statutory, could only have a distant connection with their income when working: after a career of 30 years, social insurance pensions only provide 20% at 60 years of age, and 40% at 65, of the ceiling salary. These rates, which are low enough when applied to real earnings, become ridiculous when the ceiling salary is only a fraction of the real earnings. Consequently, management had to call for the guarantee provided by a supplementary pension corresponding to that part of their salaries which was left out of account both with regard to contributions and pensions in the social insurance scheme.

The 1947 agreement includes statutory provisions about the "distributive pensions scheme" and a "supplementary life assurance scheme", and optional provisions concerning a supplementary pension and cover for risks of sickness, death and disablement.[2] We shall only deal here with the statutory clauses.

The scheme extends to all companies whose activities are represented in the French national employer's council. It does not cover activities or companies included in special social security schemes (agriculture, administration and public services, etc.).

BENEFICIARIES - THE NOTION OF "MANAGEMENT"

It is not the amount of the salary earned, but position in the company which determines the application of the scheme, which is statutory for staff members holding managerial or technical posts.

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[1] See, in particular, H. Lion: "Régime de retraites et de prévoyance des cadres" (Sirey, 1955); "Le régime des cadres" in Droit social, July-August 1962; "Retraites des Cadres" special issue of Liaisons sociales, May 1962.

[2] See below, pp. 129-130.

In general, and with reservations for certain professions, "technicians" means those who, without being in charge of anything, have received a technical training, usually leading to a degree or the equivalent, and who hold a post with the company which makes use of their acquired knowledge.

Management is defined as employees who have a technical administrative, legal, commercial or financial training, and who are able to give orders, at the employer's delegation, to other employees of all kinds: workers, clerical staff, skilled workers, foremen, technicians and administrative or sales assistants.

The scheme also statutorily covers clerical staff, skilled workers or foremen whose job rating appears in collective bargaining agreements at an index of 300 or above.

AGIRC

Since 1 April 1947, all companies within the scheme must belong to a management pensions institution. These institutions are administered by a governing council, jointly elected by employers and management. Their statutes lay down their terms of reference, which cover one or several companies, one or several professions, a region or the whole country. There were 52 of them in 1965.

These institutions must belong to the general association of management pensions schemes institutions, (AGIRC) the establishment of which is provided for in the convention (Annex 1, Article 27). In general, the attributions of AGIRC are analogous to those previously explained for UNIRS: regulation, control and compensation.

THE STATUTORY PENSIONS SCHEME

The scheme is financed by a minimum contribution of 8%,[1] 6% at the employer's charge and 2% at the participant's. Contributions are based on that part of the salary lying between the ceiling fixed for social security

[1] In 1964 the real average was 13.73%, taking account of optional supplementary contributions.

contributions and a sum at least four times greater, fixed yearly by AGIRC. They are calculated on the basis of gross salary. In order to avoid an exaggerated swelling of reserves during the transitional period, when the normal number of pensions was not due, contributions were reduced to 90% for 1961-64, rising to 95% in 1965.

Normal pensions fall due at 65 years of age and are paid at the request of the pensioner. The pension may be granted in advance, from 55 onwards, or postponed. In the case of anticipation, a coefficient of reduction is applied to the pension, but if the beneficiary is recognized by the social security authorities as disabled, a full pension is granted after the age of 60. The scheme originally included a probationary condition, which provided ten years' service in one or several companies covered by the collective bargaining agreement (even in a post not covered by the agreement). This clause was abolished by a ruling of 27 December 1961.

The management pensions scheme is a distributive one which uses the "pension points" system as explained for the UNIRS scheme.

The amount of the pension, determined by the number of points acquired and the value of the point for each year, can be increased if these are family dependents: if the beneficiary has had at least three children, his total pension points are increased by 10%; for four children the increase is 15%; for five, 20%; for six, 25%; for seven or more, 30%.

If the participant dies, reversion pensions are paid to his survivors as follows:

Widows

A pension of 60% of the husband's entitlement is paid to widows of 50 and over, or at the time of death if the widow is disabled or has two minors dependent on her. Marriage must have occurred at least two years before the death. The pension is suspended upon remarriage.

Widowers

The same conditions apply, but in addition the widower must have at least two minors dependent on him at the time of the death, or be disabled or incapable of work to draw the pension before the age of 65.

Orphans

Orphan minors who have lost both parents receive a pension based on one-fifth of the points accumulated by the deceased participant, until they reach their majority.

THE COMPULSORY LIFE ASSURANCE SCHEME

The 1947 agreement obliges employers to introduce a minimum life assurance scheme, and they must pay a contribution equal to 1.50% of that part of the salary that is lower than the social security contributions ceiling. This scheme has no special organization, and employers may take out a group insurance policy with a company of their choice.

OPTIONAL SUPPLEMENTARY ASSISTANCE AND PENSIONS SCHEME

The 1947 agreement also provided for the possibility of supplementing statutory schemes by an optional supplementary scheme financed by additional contributions. This scheme provides assistance in cases of risk other than old age, but it can also be used to complete and improve the pension.

For the share of the contribution additional to the statutory 8% devoted to pensions, recourse is had to capitalization. However, by means of agreements concluded at the level of the company or professional group, the parties may opt for distribution, and this solution is become more frequent. In that case, the contribution is added to the statutory one in order to improve the distribution scheme, the advantages of which are increased by that proportion. The total contribution devoted to distributory pensions may not, however, exceed 16%.

SECTION 3

Coordination of supplementary pensions schemes[1]

The grouping of pensions institutions within "federations" like AGIRC, UNIRS and ARRCO represents a first reaction against the fragmentation caused by a disorderly growth of schemes. The multiplicity of schemes and the probation conditions imposed by most of them were an obstacle to the professional mobility of labour, and were a penalization of those whose careers had embraced several companies, branches of professions each with its own scheme. It therefore became necessary, for economic as well as social reasons, to effect a coordination which would enable a man's whole career to be taken into account when it came to pension rights, and also grant partial pensions calculated on a pro rata temporis basis.

The professional organizations themselves were working towards such a solution, as can be seen from the establishment of UNIRS and ARRCO and the 1961 agreement.

These efforts were supported, or even initiated, by Parliament, which intervened on several occasions. The first of these was the law of 1 December 1956, and the decree of application of 23 September 1957. These texts covered two points:

(a) Any clause in the statutes of a pensions fund involving a wage-earner's loss of rights because of a change in his type of job were declared null and void;

(b) Institutions were called upon to reach coordination agreements in order to determine pensions rights and, if necessary, methods of pension payments, for wage-earners who had been members of various schemes at different times.

These coordination agreements were to include clauses to the effect that any conditions founded upon a minimum length of affiliation or a minimum age for the commencement of pension rights would, in the case of a change of activity, be taken as satisfied if this period had been spread over the coordinated schemes for the total period of the person's activity.

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[1] See Droit social, July-August 1962, G. Lyon-Caen "La coordination des régimes complémentaires de retraite".

Thus the law laid down an "obligation to contract" in order to bring about bilateral coordination through an agreement. It did not go so far as to introduce multilateral coordination, nor did it specify any penalties for failure to comply with the obligation. The results were therefore disappointing.

The second intervention by the public authorities was bolder in spirit. The law of 2 August 1961 abrogated previous provisions concerning the obligation to contract, and replaced them with a new text fixing the rules for coordination. It thus introduced a legal obligation binding on each pensions institution.

When a wage-earner has been successively affiliated to several institutions, each of them must:

(a) Take account of periods of affiliation to other institutions when calculating when the pension becomes due;

(b) Calculate the benefits which it owes on the basis of periods which it can validate.

In other words, two new principles must be followed by the funds: they must calculate pension rights on the basis of the insured person's entire career, and pay that part of the pension which they owe him pro rata temporis.[1]

In the case of UNIRS and AGIRC, the points system already made it possible to calculate partial pensions on this basis, so that the new legal provisions only affect smaller funds, whose statutes had not foreseen the contingency of having to pay partial pensions.

As regards conditions of entitlement to a pension, the legal provisions are linked with the efforts at coordination made by the large schemes (management and UNIRS). The management scheme contained a seniority condition for entitlement to a pension. The UNIRS scheme had a "waiting period" of three years ("the right of contributors to have their accounts credited with the points resulting from their total contribution paid hitherto begins after three years' continuous service with the company"). These probationary conditions were abolished in

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[1] See G. Lyon-Caen, art. cit. in Droit social.

December 1961, a step which went further than the legal provisions, which did not abolish them, but said that they must be taken into account when calculating periods of affiliation to other schemes. This is an interesting example of how an attempt to bring about better coordination between schemes can lead to their harmonization in certain respects.

It is also probable that these coordination measures,[1] combined with the groupings carried out at the instigation of occupational organizations, will open up a new era for the supplementary schemes, during which there will be a gradual harmonization of their rules.

SECTION 4

Supplementary and statutory pensions

The great part played in France by supplementary pensions schemes is due not only to their extension but also to the valuable advantages they confer on their beneficiaries in comparison with those offered by the statutory social insurance system.

Table 21 shows the cost of the old-age pensions paid by the social security system and by supplementary schemes.

Table 21 shows that the benefits paid out by supplementary schemes was, for the three years given there, more than half that paid out by the general system. These figures also prove that it would be erroneous to base international comparisons on the statutory system alone.

It is more difficult, of course, to estimate with any accuracy the respective importance of the supplementary and statutory pensions in the final sum the pensioner receives.

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[1] However, the legal provisions for coordination do not apply to all supplementary schemes: they exclude company supplementary schemes, occupational or inter-occupational schemes which the employer has joined voluntarily and supplementary schemes for coalminers.

TABLE 21

Cost of old-age pensions paid by the general social security system and by private supplementary schemes (for private sector)

(in million of francs)

Scheme	1961	1962	1963
I. General social security system	3 229	3 731	4 270[1]
II. Supplementary schemes			
1. Management scheme (AGIRC)	849.6	1 003.6	1 123.2
2. UNIRS scheme	351.8	428	488
3. Other private sector schemes	605	665	731
Total	1 806.4	2 096.6	2 343.2
III. Cost to supplementary schemes as compared with cost to general system	56	56	55

Source: Budget social de la Nation 1961 - 1962 - 1963 ("Revue de sécurité sociale" March-April 1963).

[1] This figure is approximate. As, from 1963 onwards, farm labourers' contributions have been included under the general system, an estimated 400 for agricultural old-age pensions has been deducted from the real cost of 4 670.

The limits of the general social security are that at 60, the earliest age at which one is entitled to a pension, the latter is only 20% of the reference wage (on which there is a ceiling) for 30 years of contributions. If the pension is applied for until the age of 65, the rate is raised to 40%. As the average age at which people apply for pensions is lower than 65, and the clause concerning thirty years' contributions only came into force on 1 July 1960; the real rate of the average pension (including non-contributory allowances from the

National Solidarity Fund) was estimated, in 1960, at 26% of the reference wage. According to estimates by the Ministry of Labour,[1] the average pension will increase until 1975, by which time it will represent 38% of the reference wage.

As regards supplementary pensions, the UNIRS scheme, based on a 4% contribution, should ensure a pension equal to 20% of the wage subject to contribution (the ceiling for which is fixed, it will be remembered, at three times that fixed by the general scheme). For today's pensioners, the take-over of past services has been made without any retroactive contribution, but as the corresponding rights were generally inferior to those obtained by the payment of a contribution, the cost of today's benefits is less than 20%, and has been estimated at about 15%.[2] It therefore appears that the old-age pensions of those covered by supplementary pensions schemes are at least 60% higher than those of persons outside it. This percentage is, of course, higher still for management, who obtains most of their old-age pension from supplementary schemes.[3]

Finally, there is a third factor in French supplementary schemes: the rules they apply are in many respects more favourable than those applied by the general scheme, especially as regards the validation of past services. It has been rightly said that the obvious inadequacy of the general scheme in this respect was one reason for the development of supplementary schemes.[4]

In addition, the points system adopted by the supplementary schemes enables the whole career of the participant to be taken into account, instead of a mere 30 years of it, and has many other advantages, especially because the beneficiary

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[1] See "Rapport de la Commission d'étude des problèmes de la vieillesse", La Documentation Française, Paris 1962, p. 67.

[2] See Théo Braun "Régimes complémentaires et régimes légaux" in Droit social, July-August 1962.

[3] In 1963, the average supplementary pension was FF 6 943, while the most that management could draw at 65 from the statutory scheme was FF 4 176.

[4] See J.J. Dupeyroux: "Introduction aux problèmes juridiques des régimes complémentaires de vieillesse" in Droit social, July-August 1962.

can enquire, at any moment, how much money is standing to his account. It also makes for a more rapid settlement of pensions. Finally, supplementary schemes are much more generous than the general scheme towards survivors. The inadequacy of the general scheme in this respect has often been stressed.[1]

It is the shortcomings of the general scheme and the poor guarantees it provides which account for the development and importance of supplementary schemes. But although the inadequacies of the statutory scheme underlay the expansion of the supplementary ones, the very development of the latter, and the importance attached to them by employers' and workers' organizations alike, limit expansion by the former. A Minister of Labour once declared, characteristically, on the subject of a possible change in the method of calculating pensions, that he did not see "what progress would have been achieved if extension of the statutory scheme were to be offset by a reduction in supplementary pension.[2]

CHAPTER III

Supplementary pensions in the Netherlands

To judge from the costs borne by employers,[3] it is in the Netherlands that supplementary schemes in general, and pension schemes in particular, seem of the greatest importance, because it is the country where they have the greatest resources. Employers' contributions, the only ones which appear in the EEC's labour-cost surveys, are generally matched by an equivalent contribution from the participants. This constitutes the difference between the Netherlands and Germany, where employers' contributions are on the same scale, but are usually the only funds available to supplementary schemes.

As regards their main features, the Netherlands supplementary schemes are similar to those in France, especially inasmuch as they differ from German ones.

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1 See especially "Rapport de la Commission d'étude des problèmes de la vieillesse" p. 194.

2 National Assembly debates, 28 November 1964.

3 See above, Part One, Chapter II.

As they are occupational, their source is to be found, as in France, in a collective agreement between occupational organizations (whether or not it be a collective bargain in the strict sense of the term) which can be made statutory by the public authorities. Whether they be occupational or company schemes, the funds are generally autonomous, and jointly managed. As in France, schemes are usually financed by a contribution from both parties, so that the basis of the Netherlands and French schemes is very similar.

On the other hand, there are differences of detail regarding the structure and extension of the schemes. In the Netherlands, unlike France, the obligation to introduce a supplementary pensions scheme has not been extended to industry and commerce as a whole, but is confined to certain occupations. The diversity of schemes is greater and their are fewer groupings, mainly because of the importance of company schemes.

Finally, the technique used is different, the Netherlands schemes favouring capitalization and the French ones distribution.

SECTION 1

Regulations and various types of scheme

In the Netherlands, there are two main types of supplementary pensions schemes:

(i) Occupational funds (bedrijfspensioenfondsen).

(ii) Company funds (ondernemingspensioenfondsen).

The occupational schemes cover, in principle, a branch of industry or an occupational sector, but a scheme may be common to several branches, or be confined to part of a branch. In addition, the scope may be national or regional. Finally, and this is a speciality of Netherlands schemes, it may apply not only to wage-earners, but also to employers and self-employed persons.

In the beginning, membership of these schemes was always optional, inasmuch as it could not be made statutory for the whole sector by a decision of the public authorities. Occupational organizations could decide to make their members join, but companies not affiliated to the employers' organizations remained untouched

by the obligation. In 1937, a law was passed enabling the Minister of Social Affairs and Public Health to make statutory, for the whole country or one region, the terms of a collective bargaining agreement valid at national or regional level for the majority of workers in a given sector. However, this procedure was never used in connection with supplementary pensions schemes. After the second world war, the emergency decree of 1945 concerning labour relations introduced a new system, which enabled the State Arbitration Board to make the terms of collective bargaining agreements statutory, and also to lay down conditions of wages and other labour questions. This procedure was used on certain occasions in connection with pensions schemes.

The possibilities offered by these procedures were thought to be unsatisfactory for several reasons.[1] In the first place, they only made it possible to bind wage-earners by a statutory scheme, and it was thought necessary to extend this obligation to certain categories of self-employed workers in the same branches. It was also held that the collective bargaining agreement, whose validity is limited in time, was an unsuitable instrument for handling a pensions scheme with a permanent character. Finally, it was deemed desirable to introduce a procedure including specialized bodies responsible for exercising permanent control over schemes that had been declared statutory.

This new procedure was introduced by the law of 17 March 1949 regarding occupational pensions funds (Bedrijfspensioenfondsenwet, abbreviated to Bp.w.). According to this law, the Minister of Social Affairs may, at the request of employers' and workers' organizations, make membership of an occupational pensions fund statutory for all persons, or certain categories of person, employed in the branch concerned. Before taking his decision, the Minister must consult the appropriate ministries for the sector in question (Economic Affairs, Agriculture and Fisheries, etc.), the Economic and Social Council, and the "Verzekeringskamer", a supervisory and controlling body for insurance. If the scheme is to be made statutory, certain conditions must be fulfilled. The request must be accompanied by an actuarial study, and the statutes or regulations must contain

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[1] De Sociale-verzekeringswetten (annotated collection of social security laws - bedrijfspensioenfondsenwet - p. 5).

clauses about the management of the fund, its revenue, the type of investments used, beneficiaries' rights, the composition of the board of management, etc. The fund, once made statutory, comes under the permanent control of the Verzekeringskamer.

The 1949 law also allows a company to remain outside the occupational fund if it already runs a company scheme with benefits at least equal to the former. For permission to be granted, the scheme must be managed by a fund with a legal personality, or by an insurance company, and participants' rights must be suitably guaranteed.

Consequently, we may find a statutory occupational scheme and company schemes existing side by side in the same branch.

However, these company schemes do not escape all legal regulation, any more than do the non-statutory occupational schemes. The law of 15 May 1952[1] on pension and savings funds (pensioen- en spaarfondsenwet) applies to occupational funds, whether statutory or not, and to company schemes, whether these be truly pensions or "savings" funds. These regulations therefore constitute the common law for supplementary pensions schemes.

In the first place, they limit the employer's choice of formulae for providing his workers with a supplementary pension. He has four possibilities: an occupational scheme, a company scheme, a group insurance policy or financial assistance to the holders of such a policy.

Whatever the choice made, the introduction of a pensions fund is dependent on the approval of the Minister for Social Affairs, who must approve the statutes after consulting the "Verzekeringskamer". This approval confers legal personality on the fund.

There are several clauses dealing with the organization and management of the scheme. It must be administered by a joint board representing employers' and workers' organizations. The workers' representatives on the boards of company

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[1] De Sociale-verzekeringswetten (annotated collection of social security laws).

funds must be at least as numerous as those of the employers. In principle, schemes must reinsure themselves, but the "Verzekeringskamer" may grant a dispensation, in which case that body exercises specially strict control over the scheme. In the case of company funds, no more than 10% of the fund may be invested in the business itself.

The clauses dealing with participants' rights guarantee the rights of workers whose affiliation to the scheme comes to an end for reasons other than death or retirement. When there has been less than five years' participation, the party concerned is entitled to the reimbursement of his own contributions, unless the statutes provide for the conferring of pension rights in such cases.

If participation has lasted more than five years, the party concerned is entitled to a pension proportional to his contributions and those of the employer. In this case, the statutes may enable a cash payment to be made in lieu of rights if these represent a very small pension, or if the party has ceased to belong to the scheme because of emigration or, in the case of women, marriage.

It can thus be seen that supplementary pensions schemes in the Netherlands are subject to fairly strict control by the authorities. However, this control has been far from enforcing uniformity on the schemes. Very many formulae exist within each category, both with occupational and company schemes, as legislation makes no rules about their nature.

SECTION 2

Occupational schemes[1]

1. BENEFICIARIES

On 1 January 1964, occupational schemes, whether statutory or not, included about 1 089 000 members. These schemes not only embraced wage-earners (and in some cases self-employed persons) in certain branches of industry, but also

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[1] The number and diversity of schemes made it impossible to analyse those in force in each sector, so an overall review has been made, based on 49 schemes, statutory or not, in force on 1 January 1963.

coalminers, staffs in some branches of trade, transport workers (merchant marine, Rhine navigation) some service occupations and agriculture.

Statutory schemes were mostly in industry (metalworking, machinery, textiles, clothing, food processing, furniture, woodworking, leather and footwear, the building trade and some allied sectors like cement, tiles, etc.). Outside industry, the largest statutory schemes were those for agriculture and the merchant navy.

In most cases, especially in industry, the scheme is limited to workers, and clerical staff, management and often foremen are excluded. In other cases, these categories also have a supplementary "occupational" scheme, either because they are members of the general scheme for the branch[1] or because they have one of their own. In a few industries the occupational scheme includes self-employed persons (small-scale metalworking, building, housepainting, the wood trade).

In a majority of cases the scheme is reserved for male workers;[2] when women are not excluded, the age at which they become admissible for membership is usually higher than that for men, which ranges from 14 to 21, whereas for women it is 25 to 30.

2. FINANCING

In almost all cases, schemes are financed by a double contribution from employer and worker (37 schemes out of the 49). The employer's share is often higher than the worker's, and there are some scheme which the employer finances entirely.

Contributions are either expressed as a percentage of wages, or are at a uniform rate for all workers.

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[1] Of the 49 schemes examined, 23 are for workers alone while 19 include other staff, directors excepted. However, these multi-category schemes are unusual in industry, and only found in metalworking, printing, building and glass-making. There are three schemes for management and clerical staff only (textiles, footwear and coalmining) and two for foremen alone (textiles).

[2] True for agriculture, small-scale metalworking, leather, cardboard, footwear, etc.

Contributions proportional to wages are to be found in one-third of the schemes, and are calculated on the basis of the real wages or, more rarely, of a ceiling, which varies greatly from one scheme to the next, with a minimum of 1.25% and a maximum of 22%, although the most usual rates in industry are between 4 and 6%.[1] In other sectors, like transport, we find 9 to 12.8% in the merchant navy, 9.9% for inland and Rhine navigation, and 10.5% for port workers in Amsterdam and Rotterdam.

Contributions are generally based on a daily rate of 2 to 6 florins. A comparison of this rate with the daily wage in most sectors shows that it represents about 4% of the average wage.[2] In general, a reduced contribution rate exists for workers under 21, and sometimes for women.

Only a few schemes include a disablement pension, but in most of them a permanently disabled worker continues to be eligible for pension rights, his contributions being paid by the fund until he reaches retiring age.

From the fiscal viewpoint, contributions made by the employer are treated as part of labour costs, and are not subject to turnover tax (vennotschapbelasting). Similarly, workers' contributions are not subject to income tax.

3. BENEFITS

Occupational schemes usually guarantee both old-age and survivors' pensions, but only 5 of the 49 studied offered disablement pensions.

(1) Old-age pensions

Eligibility

In general, the pension is paid from 65 onwards, the same age as that of the social security legislation.

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[1] 5.4% in metalworking, 6% in the graphic arts industries.

[2] This estimate is based on average hourly gross earnings (men and women) in certain industries and the average number of hours worked in them (source: progress report on the social situation in the Community in 1963, Tables 40 and 49).

There is no probationary period in most cases. We have seen that, where affiliation ceases, the law guarantees at least the reimbursement of the worker's contributions if affiliation has not lasted more than five years; but, in reality, most schemes recognize a right to a pension proportional to the contributions made, even in these cases. However, when it is the participant who requests reimbursement in cases authorized by the rules (women leaving work to get married, men emigrating) reimbursement may be limited to the worker's contributions if he or she has been insured for less than five years (e.g. graphic arts industry scheme).

Method of calculating pensions

The amount of the pension usually varies with the number of years (or weeks) for which contributions have been made. When these are on a fixed-scale basis, the pension is equal to the product of a sum, fixed also, multiplied by the number of years (or weeks) of contribution. This is the most usual method. The fixed sum is naturally proportional to the contribution, varying from a minimum of about Fl. 12 to a maximum of Fl. 26 (per year of membership). Taking Fl. 20 as a basis, the annual pension would be Fl. 800 for a forty year, and Fl. 900 for a forty-five year career. However, about a third of the fixed-scale schemes have a ceiling for pensions of Fl. 500 to Fl. 800 per annum.

When contributions are expressed as a percentage of earnings, this usually applies to the pension also. In these schemes (16 out of the 47) each year of membership entitles one to x% of the reference wage, which is generally that on which the contribution is based and not the last wage earned before retirement. This percentage is 1-1.25%, so that the pension amounts to 40-50% of the average wage for a 40-year career, and 45-56% for a 45-year one.

These figures, like the percentages given for fixed-scale pensions, presuppose that the participant will complete his career, but this condition cannot be met in all cases on account of the date when occupational schemes were introduced. In consequence, most schemes have temporary provisions for the validation of past services. Some schemes also have a minimum pension figure.

(2) Survivors' pensions

With very few exceptions, occupational schemes grant a pension to the widow of the participant, whether he dies before or after entitlement to benefit.

About one-third of the schemes only grant a small pension for widows (Fl. 240 per annum is the most frequent), and this is generally paid until she reaches 65, when she becomes eligible for the national old-age pension.

In the other and more numerous cases, the widow's pension is equivalent to a fraction of the pension to which the deceased was entitled, or would have been had he continued to contribute until he reached 65. This fraction varies from 30% to 65%, the most usual rate being 50%. Several schemes grant a supplementary benefit until the widow is 65, especially if she receives no benefit from the national widows' and orphans' scheme.

Most occupation schemes also provide pensions for orphans. Sometimes these are on a fixed scale, varying with the scheme, and sometimes they are based on the widow's pension, in which case they usually amount to 20% of it. Whatever basis is used, orphans who have lost both parents generally receive a double pension until the age of 16, 18 or, in some cases 21.

SECTION 3

Company schemes (ondernemingspensioenregelingen)[1]

Some 630 000 participants belong to 1 640 company funds and over 16 000 pensions arrangements (schemes which function without the establishment of a fund), so that there are fewer workers pertaining in company than in occupational schemes. Company schemes are not confined to industries without a statutory occupational scheme, but extend to those where such schemes exist providing that the company scheme offers at least the same benefits.

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[1] See "Ondernemingspensioen", Advies Commissie voor personeelfondsen, The Hague, 1963.

Company schemes are so numerous and varied that a full description of them is not possible. However, a few general and approximate indications follow.

The average company scheme seems to offer better benefits than the occupational ones, on the basis of a comparison of the pensions paid by both types in 1961.[1] In addition, occupational schemes are often open to workers alone, while company schemes are available to the whole staff.

There is no apparent basic difference between the schemes themselves. Financing is provided in most cases by both employer and participant, but since the introduction of national old-age and survivors' schemes wholly financed by participants, there has been a definite trend towards a reduction or abolition of the worker's contribution to the company schemes. However, the worker's contribution is 5-6% of the basis for calculation (wages, often with a ceiling) but exceeds 6% in many schemes for clerical staff, where it may even go beyond 10%, so that contributions to company schemes are clearly higher than in occupational ones.

The age at which participants may join is higher in company schemes - 25 for men and 30 for women. There is usually a probationary period of one or two years with the company, and membership is almost always compulsory.

Benefits generally include old age and survivors' pensions. A disablement pension is much rarer. Most schemes base their pensions on the average wages earned during the career rather than on the last pay-packet before retirement. Each year of participation corresponds to a pension of 1.5-1.7% of the wage earned then.[2] However, in many cases there is a close relationship with the national pensions scheme. Several methods are used. Some guarantee a high pension, but deduct from it the sums the pensioner receives from national insurance to the limit allowed by law[3] (80% of the base rate of the statutory pension, i.e. without taking account of revaluations of this rate due to a

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[1] See below Section 4.

[2] Many schemes revalue existing pensions, without there being any obligation or automatic machinery for this.

[3] National old-age pensions law, Article 60.

sliding scale). In other cases, the total of the statutory and supplementary pensions may not be higher than 70 or 75% of the last wage earned. Finally, some schemes use a franchise system whereby, to obtain the basis of calculation for the supplementary pensions, the amount thought to be already "assured" by national insurance is deducted from the whole, on a basis of a 70% cover, for example: (if the national pension is Fl. 3 500, the deduction is 3 500 x 100 divided by 70 = Fl. 500). This franchise is recalculated annually on the basis of changes in the national pension.

These various formulae for guaranteeing the pensioner a predetermined income by means of a direct link between the statutory and supplementary pensions seem to be more usual in company schemes than in occupational ones.

SECTION 4

Statutory and supplementary pensions

The Netherlands national insurance schemes for old-age and survivors' pensions guarantee a rather small basic pension at a uniform rate, without reference to earnings during the pensioner's working life. This system leaves a large field open to supplementary schemes, which to some extent fill the larger or smaller gap, depending upon category of employment, existing between income on retirement and previous earnings.

In fact, the Netherlands national insurance scheme was designed as a basis on which supplementary schemes could be founded. The latter are thus not regarded as an attempt to palliate the deficiencies of the statutory scheme, but as an element of the Netherlands pensions concept.

However, although supplementary pensions schemes are widespread, they do not cover all wage-earners, some of whom are left with nothing more than the national pension. This is particularly true of low-income groups. Moreover, supplementary schemes are of recent growth; as they work on a capitalization basis, their full effects will not be felt for some years to come. This affects the size of the pension for older participants, whose years of service have not been taken into account. In 1963, for example, company pensions schemes paid out some 40 500 pensions, occupational schemes 135 000, while national old-age pensioners numbered 874 000.

The following table shows the average level of supplementary pensions compared with that of the national scheme:

TABLE 22

Average size of supplementary pensions compared with statutory pensions (1961)[1]

Type of pension	Old-age pension		Widow's pension	
Statutory pension	married	1 872	with children	2 292
	single	1 182	childless	1 578
Company scheme		504		426
Occupational scheme		2 369		1 325

Source: Verzekeringskamer.

[1] As regards supplementary schemes, no more recent figures are available to enable a comparison with present figures for statutory pensions to be made.

It appears that the average level of occupational fund pensions is well below that for company schemes. There can be no doubt that this difference is due, to a large extent, to the fact that company schemes cover better-paid staff (clerical and management). These average figures do not provide an exact idea of the overall guarantee (statutory + supplementary pension) enjoyed by pensioners, in comparison with what they earned while at work, but it is clear that even now, when the supplementary schemes are not yet fully operative, the pensions they provide are far from negligible.

The large part they play in pensioners' incomes makes weaknesses in the supplementary schemes very critical. Their first drawback is due to their insufficient coordination and to the fact that, despite the widely admitted possibility of granting pensions pro rata temporis, it is still possible for a wage-earner to lose his pension rights on changing his job, especially if he belongs to a company scheme.

A second problem is that of keeping supplementary pensions aligned with rising living costs; this alignment is nowhere guaranteed, and is only partly effected by the grant of a supplement which may be decided on by the council of the scheme if circumstances permit. The Government consulted the Economic and Social Council on this matter in 1958; in 1961 the latter gave as a "possible" solution the adoption by occupational schemes of a sliding scale system based on a special fund, but this was not pursued, as being too complicated. The Council then proposed a rise in national old-age pension rates, and the Government finally chose this rise in the "basic pension" (bodempensioen) to the "minimum social" level as the solution.

It is obvious that this, if regularly adopted, would finally reduce the importance of the supplementary schemes, especially for participants with small earnings. As for those with average incomes or more, the national pension will never be more than a "basic pension"; in these cases, the margin available for supplementary schemes will always be considerable.

CHAPTER IV

Other countries

SECTION 1

Belgium

Studies of manpower costs have shown that agreed or voluntary social security costs in Belgium are only 0.48% for workers, which is the lowest rate recorded in the EEC countries. Supplementary pensions schemes only accounted for 46.2% of the costs in question. On the other hand, costs for clerical staff were much higher, and 70% of the total was due to pensions schemes.

This situation is caused by the fact that the statutory old-age pensions scheme guarantees workers what is regarded as a sufficient income, and this is not falsified by any ceiling. In the case of clerical workers, however, the pension is calculated on the basis of a ceiling wage, so that this category requires additional resources on retirement in order to maintain its living-

standard. There is no occupational or inter-occupational scheme for them, but "extra-statutory" advantages are granted them at company level, usually in the form of a group insurance policy taken out by the employer.

The few "occupational" schemes, i.e. those which cover a group of companies at least, are confined to workers alone.

1. "OCCUPATIONAL" SCHEMES[1]

These are few in number. Four of them operate at national level, and cover printing, graphic arts and the Press; gas and electricity; cement; and the petroleum products industry and trade.

There are two regional schemes concerning the metalworking industry in the Charleroi coalfield, and machine-making in the same area.

Only the gas and electricity scheme covers both workers and clerical staff.

These schemes were introduced as the result of collective bargaining agreements. In the case of the printing trade, the contracting parties used the machinery of the "existence protection fund",[2] as laid down in the law of 7 January 1958.

In other sectors, the scheme is either managed by the company (gas and electricity) or by a social fund of a non-profit making character (cement). The Charleroi coalfield schemes do not have autonomous funds, but provide for compensation of costs between companies. They are managed by joint committees.

Financing is ensured by the employers alone (cement, gas and electricity) or with participation by beneficiaries (printing trade, Charleroi region schemes).

In general, the probationary conditions are fairly strict. For example, in the printing trade, the worker must have been employed in this occupation for at

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[1] See: C. Deguelle "Les régimes professionnels complémentaires de la sécurité sociale en Belgique"; Revue belge de sécurité sociale, March 1962.

[2] See above, Part One, p. 15.

least the ten years prior to reaching pensionable age. In the Charleroi region and the gas and electricity schemes, benefit is only granted if the worker can prove at least ten years' unbroken service.

Benefits are not calculated on the basis of the wage earned, but at a fixed rate depending upon the number of years of service, job description and family status. In three cases (printing; gas and electricity; petroleum) this amount is also dependent on the statutory pension, so that the overall guarantee does not exceed a certain level (75% of a typographer's wages in the printing trade, 75% of the average wages over the last twelve months in the gas and electricity industry).

The cement industry scheme simply provides for a flat rate pension of Bfrs. 1 000 for each year of service.

2. COMPANY SCHEMES

These have never been systematically studied, and it is therefore difficult to estimate their importance. It would appear that there are many companies where clerical staff are entitled to supplementary pension benefits. This is unusual in the case of workers, with the exception of "once for all" payments proportional to length of service.

These company schemes may have been started as the result of a collective bargaining agreement, or be based on individual contracts. The most usual formula is the group insurance policy, taken out by the head of the firm in favour of all or part of his staff. Instalments are paid by both employer and staff member, the former's share being the greater. Data provided by the Insurance Union show that 377 000 policies were in force in 1963, corresponding to Bfrs. 63 246 million of insured capital.[1]

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[1] In 1961, there were 310 000 policies, and 484 000 clerical workers were covered by social security. If we suppose that almost all these policies concerned clerical staff, we can see roughly how many of them were covered.

SECTION 2

Italy

Date provided by the EEC[1] show the low cost, in Italy, attributable to supplementary schemes in general. In addition, unlike other countries, the part played here by these schemes is not preponderant, and only represents one-fifth (for workers) and one-quarter (for clerical staff) of "agreed or supplementary social security costs".

In this country, therefore, supplementary pensions are marginal in importance, both as regards costs and the number of wage-earners who benefit from them.

There are several reasons for this. In Italy, the factors which have led to the growth of supplementary pensions in Germany, France and the Netherlands do not exist. First, the cost of contributing to the disablement and old-age scheme is at a rate of 19.15%, which is much higher than in the other countries, and this rate applies to all wages without a ceiling limitation.

The statutory scheme is therefore already costly for the companies. The absence of a ceiling also makes it possible to grant a pension proportionate to the real earnings, whatever these may have been. The problem of earners of high wages[2] therefore does not arise as in Germany (because of a ceiling for workers and clerical staff), in France (workers' ceiling) or the Netherlands (flat-rate statutory pension).

Finally, there is a benefit which is not really attributable to social security, but which still represents a cost for the company and an advantage for

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[1] See above, Chapter II.

[2] Management in industrial firms (dirigenti di aziende industriali) are under a special scheme (managed by the Istituto nazionale di previdenza per i dirigenti di aziende industriali - INPDAI), which covers 25 000 persons and is financed by a 15% contribution (employer 11%, salary earner 4%) of real salary. Pensions begin at 65 for men and 60 for women (instead of 60 and 55 in the statutory scheme). After a complete career of 30 years, the pension represents 80% of average annual salary.

the employee on retirement. This is the seniority benefit (indennità di anzianità), the principle of which is laid down in the Civil Code (Article 2120 et seq.), where it is mainly treated as a dismissal benefit.[1] However, the "protection" aspect is not lacking, as the benefit is payable to survivors if the beneficiary dies. Article 2123 provides that an employer who has voluntarily introduced a "protection" scheme may deduct the seniority benefit from the benefits due under the scheme. For the amount of the seniority benefit, the code refers the reader to the terms of the "corporative regulation" (collective bargaining agreements today) but makes it clear that this amount must be calculated on the basis of the last wage earned.

The law of 18 March 1926 (No. 562) gives additional details in the case of clerical staff in private business; the amount of the benefit cannot be less than one-half of a month's wages per year of service with the company. The law of 18 December 1960 (No. 1561) raised this minimum guarantee to a month's salary per year of service. On the other hand, in the case of workers, the method of calculating the pension is freely decided by collective bargaining. These agreed terms are generally less favourable, and provide for 15 day's wages per year of service.[2]

Obviously, the existence of this seniority benefit further reduces the margin available for supplementary pension schemes.

The few "occupational" or "category" schemes still existing in the private sector are hardly more than symbolic. There is an "insurance scheme for clerical workers in industry", introduced by a corporative collective bargaining agreement in 1937, when clerical workers were not covered by old-age pensions. The scheme still exists, and covers 320 000 people, but it has never been modified: the contribution rate of 2% (employer and worker 1% each) applies to a ceiling salary of Lit. 60 000 per year.[3] The maximum contribution is thus Lit. 100 per month.

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1 "In caso di cessazione del contratto a tempo indeterminato, è dovuta al prestatore di lavoro un'indennità proporzionale agli anni di servizio, salvo il caso di licenziamento per di lui colpa o di dimmissioni volontarie" (Article 2120, paragraph 1).

2 However, in a few sector collective bargaining agreements are more generous, and provide for pensions varying from 16 to 30 days' wages per year of service.

3 This ceiling has been raised to Lit. 600 000 in the building trade.

Contributions are paid into individual accounts and a capital sum is paid out upon retirement. The fund is managed by the Istituto nazionale delle assicurazioni (INA).

"Company funds", to the number of about 300, concern fewer than half a million clerical workers, according to estimates by the CNEL (National Economic and Labour Council).[1]

However, the benefits seem to be quite advantageous. These company schemes generally guarantee an old-age and a widow's pension. A study made by the Cofindustria in 1961 showed that the schemes were financed up to 90% by the employers, and the average annual pension was Lit. 143 000, which was slightly better than the average pension paid by INPS (National Social Insurance Institute).

Information is lacking about the organization of these funds, and about their regulations. It appears that they are usually introduced at the employer's initiative. As they are considered as being part of the "social services" of the company, the "internal committee" (staff council) has, with regard to them, the "right to discussion and control" which it enjoys in such cases.[2] It may also be supposed that the funds are distinct from those of the company, as Article 2117 of the Civil Code stipulates that "special insurance and assistance funds introduced by the employer, even if the workers make no contribution to them, cannot be diverted from the purpose for which they are intended, and cannot be seized by the company's creditors". Finally, if, as seems likely, these schemes provide for allowances for service with the firm, Article 2123 of the Civil Code provides some guarantee for workers who leave before their time is up: "where insurance schemes include a contribution from wage-earners, they are entitled to its reimbursement, whatever be the reason for which the contract has ceased".

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[1] See above, Part One, p. 24.

[2] Article 2 of the inter-occupational agreement of 8 May 1953.

PART THREE

SUPPLEMENTARY SCHEMES COVERING OTHER RISKS

In terms both of cost, and of importance for beneficiaries, supplementary pensions schemes take pride of place. Nevertheless, it would be wrong to forget schemes supplementary to social security cover in other fields, especially unemployment benefit, where, in Belgium and France, supplementary schemes have done much to improve the level of protection guaranteed by law.

CHAPTER I

Supplementary unemployment benefit schemes

The French scheme is the most comprehensive, both as regards scope and benefits, and will therefore be taken first, followed by the more modest Belgian scheme, which however has the merit of covering partial unemployment also.

The special case of wet-time benefit in the building trade will be discussed in an annex to this report.[1]

SECTION I

Supplementary unemployment benefit in France[2]

The "national inter-occupational scheme for special allowances to unemployed workers in industry and trade" was established by a collective bargaining

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[1] See below, p. 157

[2] See, in particular: "L'aide aux travailleurs sans emploi", special issue of "Liaisons Sociales" of 29.1.1960 - "La convention du 31 décembre 1958 relative à la création de l'allocation chômage" by B. Oudin, in "Droit social", June 1959 - "Résultats et tendances du régime conventionnel d'assurance chômage", by J.A. CAU, in "Droit social", March 1963 - UNEDIC 1959-1964, published by UNEDIC.

agreement on 31 December 1958 and extended by ministerial decree[1] is the only unemployment insurance existing in France, as the law only provides for an assistance scheme.

1. BENEFICIARIES

The scope of the scheme is limited to sectors of activity represented on the French national employers' council. This excludes the staffs of most public undertakings, those covered by the status of coalminer, domestic service and, in the main, agricultural activities.

Within these limits, the scheme is compulsory for all wage-earners under 65, whatever their qualifications or functions.

However, certain special categories of wage-earners were left out of the 1958 agreement. Since then, steps have been taken to include in the scheme commercial travellers and representatives entirely paid on a salary basis, seasonal and casual workers, merchant seamen and fishermen. The scheme still does not cover dockers (who have one of their own), frontier dwellers working in the neighbouring country, those who work at home, or bargees.

On the other hand, the scheme has been extended to cover certain categories who do not fulfil conditions for benefit, i.e. non-contributors, such as young men freed from military service who are on the books of labour exchanges, young people who have just left professional training or apprenticeship centres, and former agricultural labourers who have requested admission to a professional training centre. It has also been extended to cover persons repatriated from Algeria.

2. ORGANIZATION AND FINANCING

The scheme is managed by the inter-occupational union for employment in industry and trade (UNEDIC) and by the associations for employment in industry and trade (ASSEDIC).

[1] See above p. 23.

UNEDIC consists of national organizations signatory to the agreement, and those who have joined it since. It also federates the members of the ASSEDICs, who are generally operative at regional level,[1] who administer the scheme's funds. Both UNEDIC and the ASSEDICs are administered by councils equally composed of employers and employees.

The role of UNEDIC is to ensure compensation between funds, to control their operations and to see to it that regulations are enforced. It goes beyond the attributes of a simple unemployment fund management. It is also responsible for "taking all suitable initiatives in the field of employment, especially as regards the placement of the unemployed, occupational readaptation and occupational training for adults". This activity, of course, must be in accordance with law and obtain the approval of the public authorities.

A national joint commission representing the signatories is responsible for interpreting the regulations.

The scheme's resources mainly come[2] from a 1% levy on earnings, 80% of which is paid by the employer and 20% by the employee. It was understood that the figure would be reduced once reserves reached a certain level, and from 1 January 1962 onwards, the levy was reduced to 0.25% (employer 0.2%, employee 0.05%). Contributions are levied on total earnings (including bonuses and gratifications) up to the ceiling fixed for management pension schemes.[3]

On 1 January 1965, reserves totalled 1 560 million francs, sufficient for 450 000 unemployed to receive benefit for one year.

The management of reserves is governed by law. After deduction of funds which must be available at sight, two-thirds of the reserves may be invested either in State or State-guaranteed stocks, or in other stocks quoted on the Paris Bourse.

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[1] There are 54 ASSEDICs: 43 inter-occupational and regional, 6 occupational and regional, 5 occupational and national.

[2] Entry fees must be paid by companies affiliated to the scheme after its entry into force (new firms or firms in a sector to which the scheme has been extended).

[3] See above, p. 91; the ceiling was fixed in 1963 at FF49 800 per annum.

3. BENEFITS

Entitlement to benefit is generally dependent upon a minimum period of of membership; the worker must have been employed for three months in a firm or firms belonging to the scheme during the year preceding his unemployment. He must also have worked a minimum of 180 hours during the last three months of employment.[1] He must also be on the books of a labour exchange.

Only complete unemployment gives entitlement to benefit, which starts on the third day the person is out of work. The rate is 35% of average daily wages during the last three months, with a maximum equal to half the ceiling for contributions (or FF24 900 in 1964). Thus the maximum daily benefit in 1964 was about FF48.40. There is also a minimum rate equal to the national assistance flat rate for unemployment: FF5.80 for the Paris area and FF5.60 for the rest of France. Accumulation of UNEDIC and national assistance benefits is allowed up to 80 to 95% of the average daily wage (variations are due to family status and the level of supplementary benefit).[2]

Entitlement is normally limited to one year, but participants aged over 50 at dismissal get a prolongation of 244 days, while those over 60 may benefit until they reach normal age for old-age pension, i.e. 65 and three months.

In the beginning the scheme was concerned with providing unemployment benefit only, which ceased as soon as the assisted person was admitted to occupational training centre, and consequently became entitled to a trainee's indemnity. The desire to encourage occupational training has induced the signatories to the agreement to modify this rule, and to grant, in certain cases, "training allowances" in addition, which increase the trainee's indemnity by 50 to 60%.

As for young men freed from military service, or who have just left occupational training or apprenticeship centres, they may receive the minimum benefit, for a year at most.

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[1] Special conditions apply to commercial travellers, and to seasonal or casual workers. These conditions of entitlement do not apply to the special categories mentioned in paragraph 1 of this section.

[2] However, wet-time benefit in the building trade may not be accumulated.

SECTION 2

"Existence protection" in Belgium[1]

As we saw earlier,[2] "existence protection" schemes, especially those including an "existence protection fund", are not merely concerned with unemployment benefit. The genesis of this formula and its extension to a growing number of occupational sectors were due to the need for supplementary protection and for ensuring stable employment. In practice, when Belgians talk of "existence protection", they are thinking of protection against unemployment.

Schemes based on "existence protection funds" are established by a decision of a joint commission and made statutory by royal decree. They apply either to an economic branch or sector, or to the whole country or a part of it. They may be established at company level also, and spread in this way to a new sector before a collective bargaining agreement is signed at occupational level: this seems to be the case in the chemical industry and in metal constructions. Consequently, these schemes are more widespread than would appear from a list of schemes by branches of activity.[2]

Organization

With regard to the organization of these schemes, we find that the possibility of establishing an "existence protection fund" for the compensation of costs is not systematically taken advantage of; in many sectors, the collective bargain confines itself to defining workers' rights and companies' liabilities (See Table I, p. 13: schemes operating without an existence protection fund). In these cases, each company bears the cost of its own scheme.

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[1] See: C. Deguelle, art. cit.

[2] See above., Part One, Table 1.

Risks covered

Existence protection schemes do not merely pay unemployment benefit, but also lay down a number of rules for avoiding unemployment, attenuating the effects of partial unemployment by rotation among workers, organizing changes of job, dismissal procedures, etc.

Among the types of unemployment for which benefit is due, a distinction is made between "partial" and "total" unemployment. This is not based on the length of the time the man is laid off, but on the fact that, in the former case, he has not been dismissed.[1]

Occupational schemes usually cover both these risks, but total unemployment is not covered in the food and the cement agglomerates industries.

In the case of total unemployment, involving dismissal, some schemes provide the same benefit as for temporary laying-off, although there are differences in the length of time benefit continues to be due (wood processing industries, leather and hides). In other cases, supplementary unemployment pay is replaced by a dismissal benefit (glassmaking, tobacco).

Financing

Schemes are wholly financed by the employers, and the cost is borne by the firm where no fund has been established. Where a fund exists, firms pay a contribution to it which varies with the sector.[2]

Conditions of granting benefit, and its duration

In general, the grant of either partial or total unemployment benefit is conditional on a probationary period.

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[1] Wet-time unemployment is a type of partial unemployment. Benefit covering this risk is not only paid in the building trade, but also in the quarrying industry.

[2] Wood processing: 0.75% of gross earnings; linenmaking: 1%; hosiery: 1%; textiles in the Verviers area: 3%; food industries: 0.75% of earnings within the limit of the ceiling applied for unemployment insurance.

This period may involve service with the company (generally at least 3 months) and in the sector (a maximum of one year). Furthermore, in some schemes the maximum duration of benefit varies with seniority in the firm. Most often, supplementary unemployment benefit is granted for a maximum of 30 to 40 days a year.

Finally, some schemes include a waiting period before benefit becomes due: in the linen industry, the supplementary allowance does not take effect until the ninth day of unemployment; in glassmaking, after the eighth day and in food industries the eleventh.

Amount of benefit

Supplementary unemployment benefits, except in certain cases of total unemployment, are fixed at a flat rate. Various levels exist, depending on family status and age, younger workers receiving less, 30 to Bfrs. 40 is usual for the maximum, the latter rate being more frequent. In consequence, these additional sums are a welcome addition to the incomes of the unemployed, who, in 1964, were receiving a maximum of Bfrs. 127.05 per day (in the case of heads of families) from the statutory scheme.

CHAPTER II

Miscellaneous supplementary benefits

In several countries, wage-earners often receive benefits supplementary to those of the social security system in connection with risks other than pensions and unemployment, i.e. capital payments in the event of death, sickness benefits, contributions towards medical expenses, family allowances, etc. However, no details are available of the amounts of benefits, the number of beneficiaries or the regulations in force.

The reason is that we are not dealing here with "supplementary schemes" complete with boards of management, and uniformly covering one or several branches of the economy, but with clauses inserted in national or regional collective bargaining agreements, company agreements or even individual contracts.

In addition, these benefits are very often granted unilaterally by the employer. In no country has a list of these "schemes" been compiled, and the little information available does not make it possible to draw valid comparisons between the situation in the various countries.

SECTION 1

Belgium

Certain benefits are guaranteed by some occupational "existence protection" schemes, mainly supplementary benefits in cases of sickness or industrial accident.

However, there are also statutory provisions regarding continued payment of wages in cases of enforced absence from work. This lasts thirty days in the case of clerical staff, by the term of the law on work contracts. For manual workers, the law on guaranteed weekly wages stipulates that the employer must pay 80% of normal wages for the first seven days when enforced absence due to sickness lasts fourteen days or more.

In the cement and petroleum industries, supplementary benefits are guaranteed by collective agreements. In the first case, a supplementary allowance of Bfrs. 50 is paid by the company from the eighth to the seventy-fifth day of sickness; in the second, wages are paid during the first three days of sickness, not covered by national insurance, and a supplementary payment of Bfrs. 50 is due from the fourth to the seventeenth day, rising to Bfrs. 70 from the eighteenth to the hundred and eightieth. The scheme also helps with the cost of medical prescriptions, operations and hospital charges, and is financed half by the employer and half by the employee. In brickmaking, several regional agreements only cover the wages of the days unpaid by the national scheme.

As regards industrial accidents and occupational diseases, the collective bargaining agreements in force in the tannery and glovemaking industry provide for the payment by the employer of the difference between the statutory benefit and the wage from the eighth to the fourteenth day of absence from work.

In the case of family allowances, there is a regional occupational scheme for the textile industry in the Verviers area, based on similar schemes in Northern France. It provides supplementary family allowances varying with the age of the children concerned. However, these benefits appear to be declining.

As stated earlier, supplementary schemes at occupational level are rare in Belgium, and exceptional indeed apart from the case of unemployment benefit. More schemes are to be found at company level, where collective bargaining agreements frequently include payment of wages for the three days not covered by the national scheme and supplementary benefits for sickness and industrial accidents. In most cases these schemes take the form of a welfare fund managed by the works council.

Clerical workers often receive their salary during periods of sickness lasting a certain time, either at the direct expense of the company or through a group insurance policy.

SECTION 2

Germany

Little information is available about supplementary schemes other than pensions at company level. For each occupation, certain advantages are guaranteed by means of collective agreements, usually concerning:

(i) a payment at death equivalent to one or two months' earnings, if a minimum of service had taken place with the firm; this condition is, however, waived when death is due to an industrial accident;

(ii) a sickness allowance for the days not covered by the national scheme;

(iii) payment by the employer of the difference between the social security benefit and the wages, beyond the six weeks' guaranteed wages (Lohnfortzahlung) for a further six weeks in cases of industrial accident;

(iv) for clerical staff, a supplementary sickness allowance for enforced absences from work lasting longer than six weeks.

As for continuation of payment in case of sickness, the law obliges the employer to pay full wages for the first six weeks. In addition, the employer must, during the same period, pay workers the difference between the national sickness benefit and 100% of their wages.

SECTION 3

France

As in other countries, the advantages supplementary to social security benefits mainly lie in the field of pensions. They are also usually established at company level, either voluntarily or because of an agreement with the company.

Certain supplementary benefits, however, are guaranteed by national collective bargaining agreements applicable to an entire occupation, or by optional "welfare schemes" to which the company may belong, or, again, to schemes that have been made binding on the company by collective agreements.

These schemes usually affect clerical staff and management only.

1. Example of the building trade

The building trade and public works enterprises provide a good illustration of the system.

"Welfare" schemes additional to national insurance are reserved for each category of staff - workers; clerical staff, technicians and foremen; experts, management and allied groups.

(a) Workers

There is no occupational welfare scheme in this case. However, the national pensions fund for workers in the building trade and public works uses part of its reserves for the payment of certain benefits, apart from pensions, to retired workers and widows entitled to a reversion pension. This benefit only covers a participation in medical, surgical and pharmaceutical expenses up to a limit of FF 250 per year.

(b) Clerical staff and foremen

For other staff, there is a distinction between advantages guaranteed by a "welfare scheme" arising from a national collective bargaining agreement, and financed by employers and their staffs, and benefits paid for wholly by the employer, and arising from the "supplementary" clauses of collective agreements.

In the case of clerical staff and foremen, welfare schemes have been introduced by two different collective bargaining agreements, one for the building trade and one for public works. These schemes are binding on all companies belonging to the signatory organizations, and are managed, except in the case of death payments, by the fund responsible for the supplementary pensions scheme.

As soon as a person is eligible for the pension scheme he becomes entitled to membership of the welfare scheme also. Companies can choose from various types of scheme, depending on the rate of contribution decided upon. The agreements in force in the sector have fixed a minimum contribution of 1.8%, 0.40% at the staff members expense and 1.4% at the employer's.

This minimum scheme grants the following benefits:

Death: Survivors receive a cash payment of:

(i) 50% of the annual base salary for a widower or divorced man;

(ii) 100% of basic salary in the case of a married man, with an additional 25% for each child under age. In the case of permanent and total disablement, the victim can opt for an anticipation of the death payment.

Sickness or disablement: From the 91st to the 365th day of absence of work, the fund pays a supplement to the social security benefit of 70% of daily basic salary.

Surgical costs: The participant, his wife and children under age are covered. The fund pays the difference between the cost of the operation and the social security benefit, with a ceiling, per operation, varying with the salary earned.

Maternity: The fund pays a flat-rate benefit equal to 25% of the social security monthly ceiling.

Side by side with the welfare scheme itself, national collective bargaining agreements provide for other guarantees at the exclusive expense of the companies, which are obliged to take out insurance against certain risks. Benefits are as follows:

(i) in case of sickness, salary is payable at the full rate for two months after one year's service, and three months after ten years' service. If absence from work is due to an industrial accident or occupational disease, salary is payable in full for three months whatever the length of service;

(ii) for maternity, salary is paid at the full rate during the eight weeks' absence from work laid down in the labour code, provided the employee has been at least one year with the firm;

(iii) collective bargaining agreements also provide for a dismissal allowance and a retirement bonus.

(c) Experts, management and allied groups

Management is covered by an inter-occupational collective bargaining agreement of 1947, which provides for a compulsory life insurance financed by an employer's contribution of 1.5% of that part of the salary below the social security ceiling.[1] Apart from the death payment, this contribution sometimes covers other benefits, such as a participation in surgical expenses with a ceiling on each operation, and a sickness allowance after the 360th day of absence from work.

In addition, there are welfare schemes particular to management in the building trade and public works. The following are the benefits:

Death: A capital sum equal to:

(i) 75% of the differential salary[2] for widowers and divorced men.

(ii) 125% of the differential salary for married men, with an additional 25% for each child under age.

1 See above, p.91 et seq.

2 Differential salary: difference between the social security ceiling and total salary earned during the four quarters preceding that in which the event covered by the benefit takes place.

Sickness benefit: 80% of the differential salary, rising to 100% if there are three children under age, from the 91st to the 365th day of absence from work.

Prolonged sickness or disablement:

33 to 66% disablement: 50% of differential salary;
66% or more disablement: 60% of differential salary;
if the presence of a nurse is required: 75% of the differential salary;
this payment is increased by 10% for each child under age up to a figure of 100% of the salary;
the benefit is paid until the age of 65.

Surgical and maternity benefits: The scheme is the same as that for clerical staff and foremen.

Finally, collective bargaining agreements make the following chargeable to the firm:

(i) In case of death from industrial accident or occupational disease, a capital payment equivalent to one, two or three years' salary, depending on grade.

(ii) Full salary for the first ninety days of absence from work, without reference to seniority, if the absence is caused by an industrial accident or a disease contracted in the employer's service; or after one year's service with the firm or five years in its branch of industry, in other cases. For the first thirty days, the cost is met directly by the company, and the employer is bound to take out insurance for the succeding period. Dismissal and separation allowances are also provided for.

2. Occupational and company schemes

The situation in the building trade is only one example of the supplementary advantages granted to certain categories of wage-earners. There is much variation between sectors.

Despite this fact, staff paid monthly (clerical staff and management) are normally covered by collective bargaining agreements specifying the payment of

full salary during enforced absence from work. The period varies with seniority in the firm.

Most supplementary insurance schemes propose a welfare scheme for other risks: sickness, disablement and death. As a general rule, membership of these schemes is not compulsory at national level through a collective agreement, but there may be compulsion through regional or company agreements covering a given category of staff.

Many companies run mutual funds of their own, or subscribe to inter-company funds.

In order to gain some idea of the importance of the optional scheme, reference will be made to a study carried out in the chemical industry, and also to data concerning company agreements in that industry.

A report to the EEC Commission by employers' and trade union organizations in the chemical industry, and covering 230 concerns, provided the following details:

(a) Experts and management

Of the 230 firms, 192 contribute to a management scheme covering risks other than old age. The average contribution was about 3.7% of that part of the salary above the social security ceiling.

Death benefit is paid by 179 firms;
disablement benefit by 154;
sickness benefits in cash by 98;
surgical benefit by 92.

(b) Foremen and technicians

Of the 230 companies, 141 have affiliated their foremen to the management pensions scheme, and 84 contribute to benefits other than pensions.

(c) Other guarantees

In addition, there were 38 company and 50 inter-company mutual funds.

Of these 88 mutual funds, 67 pay sickness benefit,
49 maternity benefit,
56 surgical benefit,
18 industrial accident benefit,
25 disablement benefit,
55 death benefit,
6 family benefits.

A review of 62 company agreements covering 380 835 staff members of various kinds shows the frequency of clauses guaranteeing benefits supplementary to those of the social security system.[1]

21 agreements provide for death benefits; there is usually a seniority clause, except in cases of industrial accident;

6 agreements provide for supplementary unemployment benefit;

39 agreements provide for full pay in case of sickness or industrial accident; however, three of them only affect staff paid monthly; duration of benefit usually varies with seniority, and the minimum is usually one year;

21 agreements provide for maternity benefit; 13 grant full pay for a certain period, while 5 others only grant a partial differential allowance;

32 agreements provide for a separation bonus at retirement.

SECTION 4

Italy

As stated before, supplementary schemes are unusual in Italy, whatever the risk considered, but there are certain benefits in the case of sickness.

As in Belgium and Germany, statutory clauses in the work contract guarantee clerical workers full pay for a minimum period in cases of sickness. The law

1 "Liaisons sociales" - "Accords d'entreprise", February 1963, situation on 31 December 1962.

of 18 March 1926 (Art. 6) stipulates that a clerical worker is entitled to full pay for a month and to half pay for the next two months if his seniority is less than ten years. After that period, he is entitled to full pay for three months and half pay for the following three.

Collective bargaining agreements generally contain clauses more favourable than this, for example:

less than 3 years' seniority; full pay for two months and half pay for four;

3 to 6 years' seniority: full pay for 3 months and half pay for three;

over 6 years' seniority: full pay for four months and half pay for eight.

Similarly, the agreements often guarantee women full pay in case of maternity throughout the statutory period of absence from work (3 months before confinement and 8 weeks after).

National collective bargaining agreements do not contain any provisions of this kind for manual workers, although the latter may receive sickness benefit at company level. However, as stated previously, these schemes are far from numerous. The national economic and labour council has listed 221, covering 252 000 wage-earners.

These schemes are not financed entirely by the employers. A Confindustria review covering 215 company schemes has shown that 44% of their resources came from employees contributions, and that three quarters of the schemes' expenditures were for cash payments, and only one quarter for benefits in kind.

No general study exists of methods of establishing and operating these schemes, but it seems that, at least in large companies, "supplementary welfare funds" (cassa integrativa di assistenza) have been established by agreement between the management and the works council on a basis of joint management. Membership is optional.

SECTION 5

The Netherlands

In the Netherlands, wage-earners often enjoy greater sickness and industrial accident benefits than those provided by statute.

As regards sickness, the law itself stipulates that "occupational associations"[1] may adopt more favourable rules. In this case, it would be incorrect to speak of a supplementary "scheme". Financing comes from normal income provided by contributions varying with each sector.

The advantages, as compared with statutory provisions, usually consist of a reduction or abolition of the three-day waiting period before benefit is paid, an increase in the benefit from 80% of the ceiling wage to 90 or 100%, and prolongation of benefit beyond the statutory 52 weeks. Thus, for instance, the rules adopted by the textile industry association provide for a one-day waiting period instead of a three-day one; daily allowances of 90% of the ceiling wage for married workers or heads of families; and the prolongation of benefit at the rate of 90% for two years in case of tuberculosis, and at 80% for one year in case of other diseases.

Where the Association has not adopted any special rules, collective bargaining agreements may include supplementary benefits, either for the whole of a branch (as in mechanical construction, paper and the building trade) or at company level. These clauses generally cover the waiting period and percentage of benefit.

As a rule, working conditions for clerical grades are not covered by collective bargaining, nor does the law mention this point, as it does in Belgium, Germany and Italy. Article 1638c of the Civil Code states, however, that married employees on sick leave enjoy a right to full pay "for a relatively short time". In fact, it is usual for clerical workers to be granted full pay when sick for up to one year.

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[1] The management of the cash benefits paid out by health insurance is entrusted to 27 "occupational associations", each corresponding to a branch of economic activity.

Collective bargaining agreements frequently include clauses guaranteeing supplementary benefits in cases of industrial accidents or occupational diseases. These provisions generally make the employer responsible for a supplementary allowance to be added, during a certain period to the temporary disablement benefit of 80% (textile industry: 90% for six weeks; graphic arts industries: 100% for one year; paper industry: 95% for one year).

Finally, certain advantages are granted by individual companies, but no details are available. They may take the form of additional sickness benefit when there is no provision for this in the industry as a whole, or advantages regarding medical care.

For wage-earners whose incomes are above the ceiling for affiliation to the health insurance scheme, the company may take out a group insurance policy for them and pay part of the instalments.

CONCLUSION

Despite certain gaps, the analysis of supplementary social security schemes leads us to various conclusions about social security problems in the Community.

These are of two kinds:

1. The evolution of social insurance in the Community countries;
2. Community initiatives in the field of social security.

SECTION I

Supplementary schemes and trends in social security

1. Social security and private insurance

Any Community initiative in the social security field naturally presupposes an exact knowledge of the present national situations, but it must also be dynamic in tendency, and this calls for reflection on trends in social security.

Clearly, the greatest use of any study of supplementary schemes will be "static", in that it contains the details needed for evaluating the social guarantees which wage-earners now enjoy in the six countries; but the study can also help to illustrate the dynamics of social security as a phenomenon of which legislation is the most important, but not the only, manifestation.

The history of social security would be meaningless without reference to trends in the various forms of private insurance schemes, which cleared the ground for statutory insurance. However, private collective insurance did not remain confined in its historical role, but has developed in the vacant area between the domain covered by statutory schemes and the ideal limit represented by the complete satisfaction of all security needs.

A first assumption might be that history repeats itself, and that social security legislation follows supplementary schemes, driving these before it. If that were so, then a knowledge of what is achieved today by supplementary schemes would provide a forecast for the social security legislation of tomorrow.

However, a second assumption might be that the expansion of statutory schemes is hindered by the success of certain private collective ones. In this case - and experience in some countries shows that it is not a mere assumption - we must be able to evaluate the guarantees provided by the supplementary schemes in order to see what margin is left for the statutory ones.

At a broader level, the traditional distinction between statutory and private insurance can be abandoned in favour of the term "collective insurance". The choice between one form and the other is, to a large extent, a matter of circumstance. On the other hand, the trends revealed by the introduction of collective social guarantees, in whatever form, are fundamental. In order to appreciate these trends they must be examined carefully.

Such examination shows that certain divergencies between national social security situations become attenuated, and that the needs behind the trend are the same. This similarity of need leads, in each country, to a conjunction of the two "rival concepts" of social security, and not to the exclusive use of one alone.

One of these concepts has it that social security must guarantee everyone a "minimum", by a better distribution of incomes according to need. The other holds that social security must lead to a collective guarantee for incomes derived from occupational activity.

In fact, it seems that the satisfaction of the need for social security depends on both these types of guarantee.

Trends in social security legislation are significant with regard to the guarantee of a minimum. They tend to ensure everyone a minimum old-age pension, health services and some compensation for educational costs. In these fields, supplementary schemes play an accessory role only: these minimum guarantees are undertaken by the community as a whole in a spirit of solidarity, and are not based on an occupation, or a socio-occupational category. This is the true domain of statutory social security.

On the other hand, it is essential to look at supplementary and statutory schemes side by side to preceive the second trend, according to which workers desire to obtain security of income in excess of these minimum social guarantees.

This aim can, no doubt, be attained within the statutory system, and in some countries that is the tendency; but the example of other countries shows that it can also be attained by the introduction of non-statutory guarantees, i.e. private supplementary schemes.

2. Need for a pension guaranteeing an unchanged living standard

Most authorities agree that old people, in order to maintain their standard of living, need an income of 70-75% of their former earnings.

There is a definite trend towards the development of a series of collective guarantees for ensuring this kind of security, both by changes in statutory social security schemes, and through supplementary schemes.

(a) In Germany, the 1957 reforms greatly improved the balance between the pension and former earnings. However, the former still only amounted to 60% of earnings at retirement, so that there was a margin of 10-15% to be covered, and even more in the case of clerical workers, for whom there is a contribution ceiling.

Not enough data are available on company supplementary pensions schemes, but it is likely that they do much to fill this gap. In any event, the need for a collective guarantee remains, even where social security already affords a high level of protection.

(b) This is even more true where social security legislation merely aims at providing a minimum living standard for all. The Netherlands example is eloquent in this respect, and displays a tendency rife in all those countries which have followed the thinking of Lord Beveridge. In the Netherlands, the national insurance scheme has abandoned the notion of a minimum living standard in favour of a "social minimum": the size of the pension is no longer based on the indispensable amount required to keep body and soul together, but must be equivalent to 70% of the minimum wage guaranteed to industrial workers.[1] In addition, the basic guarantee provided by national insurance has been the

[1] This change has not been a purely formal one: apart from the regular revaluation of pensions caused by the sliding scale, it led to a considerable rise in their value in 1964.

starting point for a widespread growth of supplementary schemes, occupational or at company level, which increasingly tend to guarantee a total benefit equivalent to 70% of real earnings.

(c) In France, the statutory old-age pension scheme provides for a benefit fixed by reference to individual earnings, but so designed that the cover (20% at 60, 40% at 65) is greatly below that given by the German system, and even, on average, that of the Netherlands flat-rate scheme for pensions.

Since the introduction of this scheme the statutory changes were mostly aimed at ensuring old persons a minimum income. On the other hand, the narrowing of the gap between former earnings and pension has been left to the supplementary schemes.

(d) In other countries, supplementary pension schemes are much more limited, as we have seen. This is because the statutory scheme has been so designed that pensions run close to, or even above, this level of 70-75% of earnings.[1]

This is the case in Luxembourg and Italy. In Belgium, on the other hand, workers' pensions can reach 75% of earnings, but the same is not true for clerical staff, because of the contribution ceiling. In consequence, supplementary pension schemes are relatively important for this category.

3. Wages guaranteed during enforced absence from work

However, there are other supplementary benefits besides pensions schemes. Their existence is typical of the tendency to cover not only the risk of destitution, but that of a loss of earnings caused by enforced absence from work.

(a) This is especially true of temporary invalidity. In all countries, there is a tendency to supplement statutory sickness and industrial accident benefits by more or less generalized schemes, some of which do not correspond to the notion of supplementary scheme as we have defined it in this report.

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[1] On this point see information given in "L'étude comparée des prestations de sécurité sociale dans les pays de la CEE", p. 54 et seq., (EEC - Série politique sociale No. 4).

For example, in several countries, statutory provisions independent of the social security legislation stipulate that for a variable period, either wages shall continue or that there be a supplement to daily benefit payments. This is the case in Belgium (guaranteed weekly wage for workers, salary fully paid for clerical staff), Germany (guaranteed pay for both categories) and Italy (for clerical staff only).

In other countries, supplementary benefits of this kind exist in given sectors by decision of the organization responsible for managing the health insurance scheme: this is done in the Netherlands by "occupational associations", and in Germany and Luxembourg by health insurance funds.

Supplementary benefits are also available within the framework of certain occupational insurance schemes (France) or through collective bargaining agreements (France, Germany, the Netherlands).

(b) Supplementary unemployment benefit, despite its importance in France and to a less extent in Belgium, is less frequently met with. These schemes attempt to increase unemployment benefit, especially in countries where the statutory protection was flagrantly inadequate, but they do not tend to guarantee full wages, except in the special case of wet-time insurance. There is less interest in this field on account of the employment situation during recent years in most of the member countries: in the scale of needs, cover against old age, an inevitable risk, and sickness, a probable one, seemed more important than unemployment, the risk of which appeared to be fading. Priority is thus given to preventing the risk rather than compensating for it, and workers wish to ensure the permanence of their incomes by full employment policies. Supplementary schemes in both France and Belgium not only compensate for unemployment, but also play a part in regularizing employment itself.

In conclusion, it seems that any realistic reflection on the future of social security must take not only legislation into account, but also all collective guarantees, whatever their legal status may be.

This wider view gives a better idea of trends in social protection, and shows the growth of social security at two levels: a minimum protection, increasingly extended to the whole population, paid for by the collectivity,

and the maintenance or extension of guarantees connected with the occupation, the purpose of which is to ensure the safety of income. These guarantees are based on group solidarity. Whether they be incorporated into social security legislation or introduced by agreements, their aims are the same. Differences in formulae are not fundamental, but reveal the variety of conditions in the different countries.

SECTION 2

Community prospects

1. Harmonization of social security schemes

Supplementary schemes are one element in the problem of harmonizing social security systems.

(a) First, the terms of comparison of national situations are modified by the prospect, in the social field, of converging levels of protection, or, in the economic sphere, by the problem of the effects of social costs on competitivity.

An appreciation of the level of protection existing in a country cannot be based on statutory benefits alone. In some cases, supplementary schemes considerably alter the respective positions of various countries, and appear to attenuate the differences revealed by a summary glance at legislation. A more synthetic approach to trends in social protection shows a certain similarity between the basic conditions existing in the six countries.

If such an overall approach seems more realistic, the obvious conclusions will be drawn about the use, for purposes of comparison, of statistical data based solely on statutory social security systems. Taking into consideration the supplementary schemes of agreed origin (and this will call for additional statistics) will naturally lead to sweeping modifications in some of the figures currently used as terms of comparison (social security costs expressed as a percentage of national income, distribution of resources according to origin, etc.). This observation is also true with regard to harmonization at the economic level, whether in the case of comparing the social security costs born

by companies, or that of measuring the effects of the mass of benefits on the economy of each country.

(b) If supplementary schemes cannot be left aside when comparing the social situations in the different countries, it may be that, at the level of Community action, initiatives should cover both supplementary and statutory schemes.

This may seem a premature question, as Community initiatives do not, for the time being, aim at the level of benefits, but at conditions of eligibility, the definition of concepts and the scope of the schemes. If the evolution of Community social policy (which is not the subject of this report) were to lead to a direct adjustment of the level of benefits, this question could not be eluded, and a decision would have to be taken as to what was being sought; an equivalence of statutory guarantees, or an overall equivalence of social guarantees of every kind. On this second assumption, which would ratify a sort of dichotomy within social security systems at European level, it would be untenable to harmonize the "statutory" branch while leaving aside the "agreed" one.

These are medium or long term prospects. But are there no problems today? To answer this, we must examine the effects of supplementary schemes on the free movement of workers, and it will become apparent that this could give rise to the problem of a certain harmonization of supplementary schemes in the near future.

2. Impediments to freedom of movement

Although the existence of social advantages not guaranteed by law raises a harmonization problem which could only be solved within the framework of more general solutions to be adopted by the Community in the future, the problem is quite clear with respect to the free movement of workers. In this respect, the Rome Treaty fixes well defined goals with a time-limit, and provides for legal process if they are not reached. Much has already been done in this field. As regards social security, the aim is to avoid a loss or reduction of the rights of workers moving from one Community country to another. A Community regulation (Regulations Nos. 3 and 4 as amended) based on Article 51 of the Treaty has settled this question so far as statutory social security is concerned.

However, the question is whether free movement requires the introduction of equivalent measures as regards supplementary agreed schemes, independently of the choice of legal instrument which might be used.

The first element of appreciation would be the importance and extension of the advantages held out by these schemes, and the present report is enough to show that, in many countries, this importance is more than marginal. The risk of their loss cannot therefore fail to affect freedom of movement.

Secondly, it must be asked whether the lack of coordination between these schemes really leads to unfair treatment for migrant workers, either as regards equality of treatment, the determination of the appropriate scheme, repatriation of benefits or the preservation of rights.

(a) Equality of treatment

This point raises no difficulties, for although Regulations Nos. 3 and 4 on social security do not apply to agreed schemes, other Community legal provisions apply generally to equality of treatment for nationals and foreign workers. The suppression of discrimination, laid down in the Treaty itself (Art. 48), is specified in Regulation No. 38 on the free movement of workers. Article 9, paragraph 1 of this Regulation states: "Workers who are nationals of Member States shall not, by reason of their nationality, be treated in the territories of other Member States any differently from the nationals of those States: they shall enjoy the same protection and treatment as nationals with regard to employment and working conditions". Paragraph 3 states: "Any clause in a collective or individual agreement concerning employment, wages or other working conditions shall be null and void if it provides for or authorizes discrimination against workers who are nationals of other Member States". These provisions clearly apply to any collective bargaining agreement which introduces a supplementary scheme or guarantees advantages supplementary to social security benefits. It may be stated that there has been no evidence of any discriminatory practices in this field.

(b) Repatriation of benefits

Regulation No. 3 has made it possible to repatriate cash benefits when the beneficiary is resident in a State other than that whose scheme is his debtor.

No provision is made for benefit due under agreed schemes, especially as regards pensions. It does not seem as though there have been any difficulties in practice. Incidentally, it is hard to see what incompatibility could arise between the repatriation of benefits and the territorial principle of occupational or inter-occupational supplementary schemes, or even the principles governing company schemes. There could only be restrictions on movements of funds, and these are to be abolished by provisions of the Treaty on capital movements.

(c) Determination of the appropriate regulations

Regulation No. 3 determines the appropriate social security legislation to be applied, in order to avoid positive or negative conflicts of law. As these provisions do not apply to agreed schemes, there are cases in which the worker could lose the benefit of the scheme he belonged to in his home country, without coming under a supplementary scheme in his country of employment, either because there was not one or because it did not apply to him.

This is a fairly limited problem, which does not arise for most migrant workers, who have generally left home to take up permanent jobs with a foreign company. In that case, they come under the social security laws of their new country, and the principle of equal treatment would enable them to benefit from the supplementary advantages guaranteed by their occupational or company scheme.

Difficulties arise in the case of temporary secondment abroad, either to a foreign branch of the worker's firm or on a specific mission. In this case, Regulation No. 3 provides, within certain limits, for continued subjection to the home country's legislation.

As for supplementary benefits conferred by a collective bargain or an insurance agreement, the situation is very confused.[1]

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[1] See G. Lyon-Caen, "La Convention collective du travail en droit international privé", Journal du droit international, 1964, No. 2

Does the worker remain subject to the scheme he belonged to at home? This solution would presuppose a flexible interpretation of the principle of the territoriality of collective bargaining agreements.[1] If the strict interpretation prevailed, the worker would be excluded from his national scheme without being sure of benefiting from the agreements in force in his new country. If these agreements had not been made compulsory in application, they would only be binding on employers of the signatory group, which would not normally include foreign employers. Even where the agreement has been made compulsory by intervention of the authorities for all companies in a given sector, the foreign employer could escape this obligation if he had no distinct company or plant in the territory of the country concerned (in the case of service industries). In other cases, given the vagueness of the law and difficulties of control, the foreign employer could, in good faith or bad, avoid the obligations imposed by local agreements.

The risk of a negative conflict is not impossible. This is a gap in international private law which should be filled. But the problem goes beyond the bounds of this report, which cannot suggest possible solutions.

In any event, when the question comes up for examination, account will have to be taken of the special problem raised by agreed social security schemes. It may not be possible to use the same rules of membership for all agreements or agreement clauses. Where supplementary benefits are concerned, it may be appropriate to adopt solutions similar to those contained in social security legislation, so that the supplementary scheme will "follow" the main scheme it supplements, and from which it results. On the other hand, different criteria might be the determining factor as regards clauses applicable to other working conditions, so that a worker might be subject, especially in the case of secondment, to the terms of an agreement in his country of work or those of his country of residence.

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[1] In France, the collective bargaining agreement for management pensions and welfare is already very flexible with regard to territoriality. It can apply, in certain cases, to management working outside France, provided that the work contract was signed in metropolitan France.

(d) Conditions for the granting and maintenance of entitlement

Once the problem of determination of the appropriate scheme has been settled, there remains that of whether the worker who has been successively employed may not find himself penalized by the conditions imposed by various schemes on the granting and maintenance of entitlement.

First, let us take the most complex case: that of pensions.

In France, the main supplementary schemes, especially those for management and UNIRS, have abandoned the probationary period existing when they were introduced. UNIRS, however, provides for a period of six months or a year with the company, during which the employee is not covered by the scheme; once this is over, he joins the scheme with retroactive effect.[1] We have seen that the French pension points system enables pensions to be calculated and granted partially and proportionately.

In the Netherlands, the system is quite different and complex, because several occupational and company schemes coexist. If the foreign worker belongs to an occupational scheme, he will not usually have to undergo probation, entitlement taking effect from the payment of the first contribution. Company schemes, however, often impose one or two years' probation. But whatever the worker's type of scheme, the law ensures him a minimum guarantee: if he has served one year or more, he is entitled to reimbursement of his contributions, and to a proportionate pension if his service has exceeded five years. The method of calculation facilitates the granting of partial pensions.

Nearly all German supplementary schemes are company ones with severe rules of five to ten years' service, if not ten to twenty. In addition, entitlement is generally dependent upon service with the company at the time of risk. Few of these schemes grant proportional pensions, but apply a flat rate to which seniority bonuses are attached after the tenth or fifteenth year of service.

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[1] The UNIRS rules were changed in December 1965; the waiting period was abolished, and workers over 21 are only subject to a period of presence with the company which may not exceed one month.

These three examples suffice to show that lack of coordination does not necessarily lead to obstacles to free movement. It is the rules of certain schemes that may place the migrant worker in an unfortunate position. Nor must it be forgotten that the penalization affects the local worker who changes his job or occupation just as much as the "migrant". However, the practical effects of clauses providing for long probation, and especially continued employment with the firm until retiring age, are certainly worse for the latter, as foreign workers, who provide a temporary labour force for another country, may legitimately expect to return home after a few years of expatriation.

The problem is, of course, simpler for short-term benefits, except where there is a probationary period. Supplementary advantages in cases of sickness, unemployment or industrial accident are usually subject to such conditions, and as these schemes are not statutory, the accumulation of periods of insurance or employment laid down in Regulation No. 3 does not apply. This is true of the agreed unemployment scheme in France (three months worked during the past year and 180 hours worked in the past three months) and of the Belgian existence protection schemes (three months' to a year's probation in the company or occupation), and for most supplementary advantages (especially guaranteed wages during absence for sickness of industrial accident) granted by companies or through collective bargaining agreements.

However, even in the case of short-term benefits, seniority in the firm (or sector) may be taken into consideration, not only for entitlement purposes, but also for determining the amount of benefit or the length of time it shall last. Provisions of this type are especially rife in schemes guaranteeing supplementary benefit or guaranteed wages in case of sickness.

But whether it be probation or seniority, these clauses do not constitute a formal discrimination against foreign workers, when the criterion used is loyalty to the firm. However, when the criterion used is seniority in the occupation or sector as a whole, the foreign worker coming from the same sector in another country is at a disadvantage compared with the local man.

(e) Final comments

It thus appears that the non-accumulation of periods of work for entitlement, maintenance and determination of rights to benefit from supplementary schemes can

prove unfavourable to those who have worked successively in different countries, but are equally unfavourable for workers moving from one job or sector to another, even in their own country.

Does this imply that an attempt at coordination at Community level would be unjustified? Not at all. First because in fact, and sometimes by law, foreign workers find it more difficult than nationals to fulfil certain conditions of seniority or probation spread over long periods. One may also wonder whether unstinted approval should be given to the unreserved continuation of obstacles to internal mobility of manpower within economies that are evolving as a result of the Common Market itself.

When looked at in this light, the problem can be solved only by coordination at European level. At the same time, there must be internal coordination; and this has taken place in France only.

Whatever the level of such coordination, it is realistic to suppose that it could not include all types of supplementary schemes, especially the company ones.

The only overall solution would be an adaptation of the various schemes, so that their coordination would cease to offer any real interest. Adaptation should aim at reducing probationary periods, and providing for pro rata temporis payments for old-age benefits.

How could these results be achieved? Whether it be the establishment of standards for determining the appropriate scheme, guaranteeing the repatriation of benefits or harmonizing to some extent the conditions of entitlement to supplementary benefit, responsibility lies in the first place with employers' associations and trade unions, who are the "legislators" and policy-makers for collective bargaining agreements.

In a more general way, it is essential that there should be a certain parallelism between a greater cooperation among Member Governments (as laid down in Article 118 of the Treaty), which can only have direct and immediate results in spheres within the competence of the authorities, and the development of Community action by associations of employers and the trade unions. If there is simultaneous and, to some extent, coordinated action at these two levels, efforts to formulate and carry out a Community social policy will be jeopardized in the long run.

This need is especially felt in the limit area of "social protection". We have seen how unfair it would apply to break down the elements of what the workers regard as a package because these elements come under different legal headings, and are thus subject to different responsibilities. One might even say that all guarantees extended to workers are seen by them as a sort of social statute connected with their job, whether the advantages be based on the law or on collective bargaining.

If European integration is to be effectively looked upon by workers as a reality, and freedom of movement to appear as the freedom to choose one's work-place and not a mere economic arrangement for making better use of manpower, movement from one Community country to another must not entail any serious change in this "social statute".

ANNEX I

Supplementary social security schemes in agriculture

Available information suggests that agricultural labourers are eligible for supplementary pensions schemes in France and the Netherlands, and for certain supplementary benefits in the case of sickness or occupational accident in Italy.

I. SUPPLEMENTARY PENSIONS SCHEMES IN FRANCE AND THE NETHERLANDS

In these two countries supplementary pensions schemes for agricultural labourers have been introduced.

The Netherlands scheme, known as the "Bedrijfspensioenfonds voor de landbouw", was made statutory by a Ministerial decision of 1 May 1949.[1] It applies to wage-earners and self-employed farmers.

France does not have a statutory scheme for the whole category, but three schemes. The largest is the autonomous mutual supplementary agricultural pensions fund (CAMARCA) which is part of the agricultural mutual fund. Membership of this scheme can be made statutory by a collective bargaining agreement for all employers whose farms lie in the département for which their organization has signed such an agreement. Individual membership is open to employers not covered by the agreement.

CAMARCA includes about 280 000 agricultural labourers in a score of départements. Two other supplementary pensions schemes have agricultural branches: the inter-occupational pensions Fund and the general Association of pensioners. These two organizations have about 80 000 group or individual members in agriculture.

In all, therefore, 360 000 agricultural labourers are covered by the schemes, out of an estimated 800 000 full-time and casual labourers.[2]

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[1] For occupational schemes in the Netherlands, see Part Two, Chapter III.

[2] See (Série politique sociale n° 7), "L'emploi agricole dans les pays de la CEE", Brussels, 1964.

1. The French system: CAMARCA

Organization, membership, beneficiaries

The CAMARCA is an autonomous, jointly-administered fund. Its board is equally composed of farmers' and labourers' representatives.

It operates within the agricultural mutual fund, i.e. the organization responsible for the application of social security legislation to agriculture, and its technical operations are carried out by the central agricultural Fund for mutual assistance, and by mutual funds in the départements.

Membership of CAMARCA is open to the heads of agricultural and forestry holdings or enterprises, rural artisans, and heads of enterprises engaged in threshing or other agricultural work.

This membership is statutory for employers who have signed a national, regional or departmental collective bargaining agreement which specifies affiliation to CAMARCA. On 1 January 1965, 46 such agreements were in force, each covering, generally at the level of a département, either agriculture as a whole or a sector of it (field crops and livestock, market gardening, horticulture, etc.).

The participants in the scheme are present or former wage-earners of the member enterprises provided they are over 21. They may only become affiliated after spending a "probationary period" of six months in agriculture.

Financing

Contributions are calculated in principle on the gross wage as declared to the tax authorities, but a different basis may be fixed by collective bargaining agreements, for example the agreed wage or ceiling wage used for calculating social security contributions. Of the 46 agreements, 21 use real wages as the basis for calculation.

The pension contribution rate is fixed by the agreement at a minimum of 2.5% and a maximum of 10% (the UNIRS scheme[1] which covers most employees in industry and commerce has the same minimum, but a maximum of 4%). In practice, the rates adopted are 3.5 to 4% (UNIRS average = 3.5%).

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[1] See Part Two, Chapter II.

In the case of 19 agreements, there is an additional death benefit contribution of 0.5%.

The employer pays 60% of the contributions and the worker 40%, unless the agreement provides better terms than this for the latter.

Old-age pensions

The CAMARCA scheme is very like that of the UNIRS, using as it does the pension points system.

Old-age pensions are due at 65, or 60 in the case of disablement. Anticipation may be requested at 60, entailing a reduction of 4% for each year.

The annual pension is equal to the number of points to the pensioner's credit at 65 multiplied by the value of each point as fixed annually by the governing council of CAMARCA.[1]

As with UNIRS, the CAMARCA scheme provides for the validation of past services by granting "free" points. The maximum number of years that can be validated is 44. Periods of enforced absence from work are also counted as valid.

The pensions thus calculated are increased by:

(a) 10% when the pensioner was born before 1 January 1891;

(b) 10% for each child still dependent at the time of retirement; and

(c) 2.5% for each child brought up by the pensioner until the age of 16.

The total increase for family allowances cannot exceed 40%.

Survivors' benefit

Widows of 55 and widowers of 65 are entitled to a reversion pension of 60% of the wage-earner's entitlement. These age-limits do not apply when the widows

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[1] For the points scheme, see description of the UNIRS system, p. 81.

or widowers are incapacitated or have two or more dependent children under age. Orphans who have lost both parents are entitled to 20% of their parents' points rights until they reach 21.

Death benefit

If the agreement provides for death benefit, the spouse, children or heirs of the deceased are entitled to a capital sum equal to the annual wage on which the last year of contribution was based. This can be increased by 25% for each dependent child up to a maximum of 100%.

The amount of the death benefit can be paid over to the pensioner himself if he is in receipt of a disablement benefit entitling him to the assistance of a third party.

2. The Netherlands scheme: the agricultural pensions fund

Organization, membership, beneficiaries

The agricultural pensions fund is an autonomous fund jointly managed by an equal number of workers' and self-employed farmers' representatives. As the scheme has been made compulsory by the public authorities at the request of professional organizations, membership is binding on all male workers from 17 to 65, whether wage-earners or self-employed, engaged in the activities covered by the fund's statutes. These include agriculture itself, and also horticulture, sylviculture, gamekeeping, turf-cutting, agricultural machinery services, etc.

However, those concerned may, as is usual in the Netherlands[1] be excused from membership if they can show that they are covered by another scheme giving them at least equivalent protection and offering serious guarantees.

Financing

Contributions are based on a flat rate, half of which is paid by each party. Weekly rates are Fl. 1.75 for workers under 21, and Fl. 3.50 for the remainder.

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[1] See above, p. 104.

These rates have been raised several times, and were Fl. 1.25 and Fl. 2.50 until 28 September 1952, and Fl. 1.50 and Fl. 3 from then until 1 July 1957.

In case of disablement, the member's contributions are paid by the Fund.

Benefits

These are old-age, disablement and survivors' pensions.

(a) Old-age pensions

Pension rights begin as soon as a member has Fl. 3.50, i.e. one week's contribution to his account. Thus there is no probationary period.

Pensions are due at 65.

The annual rate is Fl. 26 per year of membership before 1 January 1963, and Fl. 15.60 for periods previous to that date, with a forty-year accumulation-limit.

(b) Disablement pension

Eligibility begins at the age of 21, after at least 156 weeks of contributions. However, only those who are not beneficiaries under the social security disablement scheme are entitled to this benefit, which is equal to two-thirds of the old-age benefit to which the pensioner would have been entitled had he continued to contribute until he was 65.

At that age, the disablement benefit is replaced by the old-age pension.

(c) Survivors' rights

Widows' pensions are paid:

To insured persons' widows who have not reached the age of 60 at the time of their husbands' death;

To widows of old-age pensioners, provided the former are under 60 and that the marriage took place at least one year before the pensioner's 65th birthday;

To widows of disablement pensioners, provided the former are under 60 and that the marriage took place at least one year before the disablement occurred.

The annual pension is Fl. 260. This is increased to Fl. 660 if the widow is not entitled to a social security pension under the widows' and orphans' law or the industrial accident legislation. In the latter case, the supplementary pension continues until the age of 65, whereas it normally ceases when she is 60.

The pension terminates upon remarriage, but the ex-widow is entitled to a lump sum, up to a ceiling of Fl. 750, equal to the annuities to which she would have been entitled, had she not remarried, until the age of 60 or 65 (see previous paragraph).

Orphans who have lost their fathers are entitled to an annual pension of Fl. 52, and double for those who have lost both parents. These pensions continue until 18.

II. SUPPLEMENTARY BENEFITS FOR AGRICULTURAL LABOURERS IN ITALY

In about thirty provinces, collective bargaining agreements provide agricultural labourers with certain supplementary advantages in addition to those laid down by social security laws.[1] In general, the advantages take the form of exemption from the waiting period for accident insurance payments or supplements to daily sickness benefit.

For example, there is the collective agreement on supplementary insurance for agricultural labourers in Rovigo province, which provides for the establishment of a joint fund to supplement the daily sickness benefit paid by the INAM (National health insurance institute). Financing is provided by a flat-rate contribution paid half by each party.

The amount of daily benefit is subject to revision when there is an increase in the INAM rates.

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[1] It seems that, in many cases, these provisions have ceased to apply because of improvements in social security legislation.

A N N E X II

Supplementary social security schemes in the building trade[1]

This report only takes account of schemes applicable to an entire country for workers in the building trade and in public works, as that sector is defined in the country concerned.[2] Company schemes are therefore excluded: little is known about them, and a special study would be required.

Nor has it been thought appropriate to analyse here the supplementary advantages which all wage-earners enjoy, either through inter-occupational collective bargaining agreements[3] or by law.[4] These "schemes" will be examined in a future study embracing all supplementary benefits.

In the building trade, the most important supplementary schemes concern wet-time insurance and old-age pensions.

It would be incorrect to describe as "supplementary" the provisions existing in each country with respect to the special kind of unemployment caused by "wet-times" in the building trade. Only in Belgium are benefits for this added to ordinary unemployment insurance. In the other countries (except Luxembourg, which has no special system for this purpose), wet-time schemes are a "substitute", because they set aside normal unemployment regulations in favour of others, better adapted to the situation, be they statutory or agreed. Without attempting to give a common definition, we shall list these "special" regulations, to allow for a comparison of the effective situation for workers in the six countries, and of the problems which arise at Community level.

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1 Extract from a report published by the EEC Commission in 1963.

2 The scope of agreements and regulations concerning the building trade varies from country to country.

3 In France, the supplementary unemployment insurance scheme and the supplementary pensions scheme for management.

4 For instance, provisions for a guaranteed weekly wage in Belgium, or the maintenance of wages for the first six weeks of sickness in Germany.

As for pensions, the problem is clearer: in Germany, France and the Netherlands, building workers have schemes which are supplementary to statutory social security.

Collective bargaining agreement clauses concerning holidays with pay have been examined, because this is not really a social security matter.

CHAPTER I

Special guarantees for building trade workers in case of unemployment

I. BELGIUM

Introduction

The special guarantees enjoyed by building trade workers in case of unemployment are contained in three regulations, which deal with:

(a) Benefits in the case of frost or persistent snow;

(b) "Building allowances";

(c) "Wet-time unemployment"; in Belgium, this means benefits for working days not begun, or interrupted on account of the weather.

It was not Parliament which initiated these regulations, but the joint building commission.[1] The frost allowance was instituted by the collective bargaining agreement of 19 June 1947 (made statutory by the Regent's decree of 18 September 1947), which introduced an existence protection fund for building workers. Another agreement of 19 June 1947 introduced a "rain allowance" scheme.

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[1] Joint commissions, representing workers' and employers' organizations on an equal footing, have a legal status under a decree-law of 9 June 1945. They are competent for a given branch of activity. Their decisions are taken unanimously, and can be made statutory by Royal decree for the whole branch concerned. The law of 7 January 1958 gives them full authority to set up existence protection funds.

In 1962, a new agreement made substantial improvements to protection schemes for the unemployed, especially by means of building allowances and reforms of the rain allowances (agreement made statutory by Royal decree of 10 August 1962. The most recent regulations are based on the decision of the joint national commission of 10 April 1964, made statutory by Royal decree on 7 August 1964.

The whole system is under the aegis of the existence protection fund, managed by a joint board.

The frost and building allowances schemes are truly supplementary to the general unemployment insurance scheme, as benefits are only paid when conditions for unemployment benefit are fulfilled, and are added to the latter, a solution which distinguishes the Belgian scheme from those operating in other Community countries.

A. Frost (or persistent snow) allowance

Financing

Employers pay a contribution fixed by the national commission. The rates for 1965-66 were 3.6% for rough work, and 0.6% for finishing. These rates are applied to wages to the extent of the contribution ceiling for unemployment insurance, which was Bfrs. 8 800 per month in June 1965.

Risk covered

This is closely defined. Benefits can only be paid during periods of frost or persistent snow, and then only if the fund has been declared "open". The opening and closing of the fund are subject to precise conditions based on daily temperature records taken in each of the twelve Belgian meteorological stations. If there is persistent snow but the temperature criteria are not met, an opinion is given by a joint regional committee and communicated to the governing board of the fund, which then takes the decision.

Entitlement

Workers must be laid off for reasons of frost (or persistent snow), without breach of contract, by a firm belonging to the joint building commission. However, workers laid off after 15 October for reasons other than frost also benefit while the fund is open.

In principle, workers must meet the conditions for entitlement to unemployment benefit, but the fund pays the supplementary daily indemnity to workers over 65 if, because of their age, they no longer qualify for the main benefit, provided they fulfil the other conditions and do not draw a pension.

The worker must have been employed for a minimum period in the building trade, and must possess a "legitimation certificate" corresponding to a minimum of 200 days' work[1] during the previous year (185 days for those over 55 and 175 days for those over 60).

Benefits

The daily allowance is equal to the difference between two-thirds of the agreed wage for the worker's job and the ordinary unemployment benefit. The calculation is based on nine hours' work a day for a five-day week.

It should be recalled that, in Belgium, unemployment benefit is not based on a fixed proportion of the beneficiary's real wages, but on a flat rate including variables for age, sex, family status and place of residence. These rates represent 50-60% of the average unskilled worker's wages.

Frost allowances are paid so long as the fund remains open, with no restriction as to duration.

B. The building allowance

Financing

Employers pay a contribution of 1.90% (for finishing) or 2.40% (rough work) of ceiling wages, or Bfrs. 8 800 per month (June 1965).

Risk covered

Building allowance is paid in all cases of accidental unemployment, partial or complete, caused by reasons other than frost or persistent snow. Accidental unemployment is taken to mean that caused by an unexpected and temporary circumstance.

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[1] On the basis of a six-day week.

Entitlement

As for the frost allowance, the worker must be eligible for unemployment benefit. In addition, he must have a legitimation certificate showing 190 days worked in "building" during the previous year. The minimum is reduced to 175 days from 55 to 59 years, and to 165 days from 60 to 65.[1]

Benefits

Building allowances are calculated in the same way as those for frost. However, the number of days of benefit is limited, varying with the number worked in the previous year. The minimum is 25 days' benefit on a five-day week basis, and the maximum 63 days if 300 or more were worked the year before.

C. Allowances for days not worked or interrupted on account of bad weather (rough work and roofing)

Until the agreement of 1962 was signed, this indemnity was not covered by the employer's duty to pay two-thirds of wages within a limit of seven hours a week for work interrupted by rain. The 1962 system maintains a form of direct indemnity, but adds an indirect flat-rate payment independent of the number of hours the worker has been effectively laid off.

Financing

Apart from indirect allowances, employers bear the cost of the "wet-time stamps" stuck monthly on the "wet-time cards" of their workers, which represent 2% of the value of the gross wage received during that month.

Risk covered

Direct indemnities cover hours of work lost through wet-time or when the worker, who has gone to work at the usual time in the morning, has not been able to do his job, or has been laid off during the day. In both cases, he may have to remain at his employer's disposal for any other work that can reasonably be assigned to him, either under cover or protected by suitable clothing provided by the employer.

[1] This is a temporary state of affairs. The minimum will be raised later to 190 and then to 200 days.

Benefits

Direct indemnity represents 50% of real wages for each hour lost, and is paid by the employer at the same time as wages. Indirect indemnity consists of the reimbursement of the wet-time stamps, i.e. 2% of gross wages. Reimbursement takes place twice a year.

II. GERMANY

Introduction

The law of 7 December 1959 concerning "guarantees for the maintenance of employment in the building trade" supplements legislation concerning unemployment insurance and introduces special regulations about interruptions of work caused by bad weather (Schlechtwettergeld). Wet-time unemployment benefits are dealt with by unemployment insurance organizations inasmuch as it is they who provide the benefits. Financing thus comes from normal unemployment benefit contributions. There are no special earmarked benefits for this purpose.

Before wet-time insurance became subject to statutory rulings, a "wages compensation fund" was instituted by a collective bargaining agreement of 1955, in order to ensure building workers laid off during the winter a supplementary allowance above unemployment benefit. This fund was financed by employers.

The agreement of 20 August 1959 was designed to:

(a) Provide "wage compensation" for the Christmas period (24 December-1 January inclusive) through employers' contributions; or

(b) To pay a "transitional allowance" (Übergangsbeihilfe) when winter-time unemployment included the whole compensation period (24 December-1 January).

A. Wet-time indemnity (Schlechtwettergeld)

Financing

Costs are covered by the normal resources of unemployment insurance, derived from a 2% contribution, half of which is paid by either party (however, the present rate is 1.3% only).

Risk covered

Wet-time indemnity is paid in the building trade from 1 November to 31 March when:

(i) Bad weather prevents notice of termination from being given in due time;

(ii) Upon suspension of work, the man concerned fulfils the seniority conditions required for receipt of wage compensation for the Christmas period;

(iii) Suspension of work is due entirely to climatic reasons;

(iv) Work is suspended for a full working-day;

(v) The suspension of work is immediately brought to the attention of the labour exchange.

Stoppage of work for climatic reasons is only imperative if the rain, snow, frost, etc. or their consequences are so severe or durable that it is technically impossible for work to continue, or that the workers can no longer be expected to carry on in such conditions.

The condition of a day's work lost is considered as fulfilled provided that work is suspended three hours at most after the day's work begins.

Entitlement

No condition of seniority in the building trade is required. All workers who, when work stops, are doing a job covered by statutory unemployment insurance, and whose contracts have not been terminated, are entitled to benefit.

Benefits

Wet-time benefit is calculated, for each day lost, according to the hourly wage the worker would have earned and the number of hours he would normally have worked that day, on the basis of the employer's custom and within the limits of the working hours laid down in the collective bargaining agreement. For piece-work, reference is made to the average wage earned per hour during the last period of earnings before the first stoppage of the season (1 November-31 March). Wet-time benefit is 10% above unemployment benefit, which today stands at 55% of net wages. Wages are limited by a ceiling of DM 175 per week or DM 750 per month.

Wet-time pay varies according to family status, within four categories. Class I (no dependents) indemnities are raised respectively by 9, 18 and DM 27 for classes II, III and IV. There is no limit to their duration.

B. Guaranteed wages during the Christmas holidays (Lohnausgleich)

Financing

Employers pay a contribution of 2.85% (in 1965) of gross wages to the "wages compensation fund" (Lohnausgleichskasse), which is jointly managed by the signatories of the collective agreement.

Risk covered and entitlement

Entitlement presupposes that the working contract remains in force, but the fact that the beneficiary worked or did not work during the period compensated is not taken into account. During this time, the worker may not be dismissed, and notice given on 24 December only takes effect after the compensation period. Entitlement is based on at least thirteen weeks in the building trade during the year ending 24 December.

Benefits

"Wage compensation" is based on average gross earnings during the last wage period and on the agreed working week. It corresponds to what the worker would have earned during the period.

Apart from wage compensation, the agreement provides for a "transition allowance" for workers who, while having the required qualifications for benefit, are out of work during the Christmas period as a result of dismissal between 15 October and 24 December. They receive DM 35. A further allowance may be granted if the worker remains unemployed for at least 42 days of the winter period.

III. FRANCE

Introduction

Wet-time benefit is the subject of the law of 21 October 1946. Those who receive benefit under this law are not eligible for "general" unemployment benefit. In addition, the supplementary unemployment benefit scheme, introduced by the collective agreement of 31 December 1958 and applicable to almost all workers in industry and commerce, covers total unemployment only, and therefore does not apply to wet-time work stoppages.

The management of this special scheme is in the hands of the organizations responsible for applying legislation concerning paid holidays in the building trade, i.e. the national overcompensation fund, and the regional paid holiday funds.

Financing

The scheme is financed by the companies only. Employers pay a certain percentage of their wage-bill into the paid-holiday fund to which their firm belongs. No contribution is due for that percentage of the wage which exceeds the social security ceiling.

The contribution varies with the needs of the scheme. It was 1% in 1962, but was raised to 3.75% on 1 July 1963, to remain at that figure until 30 June 1965.

Firms whose annual wage-bill is less than a minimum (FF 15 060 until 30 June 1965) do not contribute, but pay benefit from their own funds.

Risk covered

The scheme covers work stoppages caused by frost, severe storms, continuous winds, heavy falls of snow, and persistent rain and flooding, when these conditions make work impossible or dangerous for the health or safety of the workers.

The stoppage is decided upon by the employer after consultation with workers' representatives.

Entitlement

The worker must have to his credit, at the time of the stoppage, at least 200 hours' work for one or more building firms in the course of the previous two months, and must be present on the site when the stoppage is decided upon. He remains at the firm's disposal during the whole of the wet-time.

Benefits

Until 1962, benefit began on the first working day following that on which the stoppage was ordered. This meant that stoppages of one day only were not covered by the scheme. The period has now been reduced to four hours in a week (16 February 1963).

The indemnity is calculated per working day, on the basis of the length of the working day in the firm concerned, up to a limit of 8 hours. It amounts to three-quarters of the worker's hourly wage the day before the stoppage, bonuses included. It does not, however, take account of that part of the wage above the social security ceiling + 20%.

Wet-time benefit cannot exceed 48 working days per year. It is paid by the employer, who is reimbursed by the paid-holidays fund to which he belongs, but he only recovers 90% of the total.

IV. ITALY

Introduction

Until 1963, there was no statutory or agreed ruling for wet-time benefit as such. However, building trade workers received the equivalent of wet-time benefits from the Cassa per l'integrazione dei guadagni (Wage supplements fund) for partial or temporary unemployment. In addition, the national building trade agreement provided, and still provides, for a special indemnity, justified by labour conditions in the trade, especially work stoppages due to climatic conditions. This payment is due for each working hour, and varies regionally from 6 to 14% of the true basic wage.

The law of 3 February 1963 introduced a scheme for building operatives with special emphasis on wet-time, which became better provided for. A special fund managed by the national social insurance institute was set up for this purpose within the wage supplements fund system.

Financing

Companies pay a contribution equivalent to 1% of gross wages into the special fund.

Risk covered

Payment is made in all cases where because of weather conditions, or any other cause independent of the workers' or employers' volition, work is suspended or continued with a reduced timetable.

Entitlement

There are no minimum conditions of seniority. The only proviso for entitlement is that the conditions specified should occur, but payment is only made after authorization from a provincial commission if the suspension does not exceed one month. After that, a central commission must give its consent. Representatives of both parties sit on the commissions.

Benefits

Benefit is equal to two-thirds of the wages lost for each hour, up to forty hours per week. The maximum benefit period is three months.

The collective bargaining agreement for the building trade, negotiated in November 1963 for the years 1964 and 1965, will increase the indemnity to 80% of the wage.

V. LUXEMBOURG

Luxembourg has no regulations about special conditions for building operatives. In the case of wet-time unemployment, the general unemployment insurance scheme, financed by the State and the communes, comes into force.

Risk covered

Unemployment in general, including wet-time stoppages, for which there are no special provisions.

Entitlement

The claimant must have worked 200 days during the twelve months preceding the stoppage.

Benefits

The normal scheme provides for a waiting period of two days if unemployment lasts less than one week. This does not allow for indemnities for isolated days of unemployment, which often occur because of weather conditions. However, a liberal solution has been found for cases where several consecutive periods of unemployment are only interrupted by isolated working days, inasmuch as these periods are counted as a single one.

The indemnity is calculated on the basis of the average gross wage subject to health insurance contributions, i.e. up to Lfrs. 2 260 per week. The rate applied is 60%, and the maximum benefit is Lfrs. 1 596 per week (1964).

Benefit is limited in all to 26 weeks in any one twelve-month period.

VI. NETHERLANDS

Introduction

Wet-time benefit has been regulated by collective bargaining. An agreement of 1947 set up a special fund (Risicofonds) for covering unemployment caused by frost or persistent snow. Agreement clauses also cover working hours lost because of rain or darkness.

The building trade Risicofonds was introduced before the unemployment insurance legislation came into force. This insurance is managed on an occupational basis; as regards the building trade, it depends upon an occupational association established by the workers and employers engaged in the

trade. Wet-time insurance is normally covered by the Risicofonds, but workers who have not enough seniority to be eligible can obtain benefit from the general unemployment insurance scheme.

The Risicofonds is managed by the building trade social fund foundation, which includes several institutions or funds in the sector.[1]

A. Unemployment due to frost or persistent snow

Financing

Risicofonds is financed by employers' contributions. In 1963, the contribution was 7% of the agreed hourly wage.

Risk covered

The Risicofonds only covers unemployment due to frost, its consequences, or persistent snow. Bad weather conditions are checked by taking the average temperatures recorded for the whole country by the national meteorological institute. It is the employer who decides if work is to be suspended; the check is carried out later by the social fund foundation.

Entitlement

The worker must be the holder of a legitimation card, given to him before the winter begins on condition that contributions have been made in his name by a building firm for at least 120 working days during the previous financial year. If these conditions are not fulfilled, the worker is entitled to unemployment benefit if he fulfils the seniority conditions laid down by law.

Benefits

Benefits amount to 90% of the hourly wage as fixed by collective agreements for each region and job description. Benefit runs to a maximum of forty-five hours per week. It is paid directly by the employer, who is afterwards reimbursed by the fund, which also repays the corresponding social security costs.

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[1] Housepainters have a fund of their own.

B. Unemployment due to rain or darkness

Collective agreements stipulate that when unfavourable climatic conditions (other than frost) prevent the worker from doing his job, the employer shall pay 90% of the agreed wage. However, he must pay the full wage when work is suspended for lack of daylight.

CHAPTER II

Supplementary pensions schemes

I. GERMANY

Introduction

A collective agreement for the building trade signed in 1957 by nation-wide occupational organizations introduced a supplementary scheme for old-age, disablement, industrial accident and widows' pensions schemes, in addition to the benefits provided under the statutory scheme.

The managing authority is the "Supplementary Assistance Fund" (Zusatzversorgungskasse des Baugewerbes), with joint representation. It applies to building operatives who are statutorily covered by old-age and disablement insurance (i.e. those who earn less than the affiliation ceiling), foremen and head diggers.

Financing

The scheme is financed by employers only. They pay a contribution of 1.65% of the total gross wages. For foremen, they contribute DM 36 per quarter.

Risks covered

Supplementary allowances are provided for old-age, disablement and widows' pensions, and for disablement pensions in cases where invalidity exceeds 50%.

Entitlement

The various allowances depend in the first place on conditions of seniority. To become eligible workers must have been employed in the building trade for 220 months (18 years and 4 months). For entitlements beginning before 1969, this period is reduced by ten months for each year, until a limit of 110 months for entitlements beginning in 1958 or earlier. This seniority is not required for a supplement to industrial accident pension.

Benefit is only paid if the worker, when the pension becomes due, is employed in the building trade or has left it less than twelve months earlier.

Entitlement to benefit is suspended when the insured person continues to pursue gainful employment bringing in an annual income of more than DM 2 000 for old-age pensioners and persons already in receipt of disablement, old-age or industrial accident pensions before 1 January 1958.

Benefits

(a) The old-age pension is DM 45 per month.

(b) The supplementary allowance for disablement or industrial accident is DM 30 per month. When these pensions are initially granted before the holder is 60, there is an increase of DM 3 for each year from the age of 60 to 65.

(c) Workers who, on 1 January 1958 were holders of an old-age, disablement or industrial accident pension, and who were employed before that in the building trade, are entitled to DM 30 per month.

(d) A widow's allowance of DM 30 per month is paid during the 24 months following the insured husband's death.

Other benefits were provided for in the collective agreement of 10 August 1962 for workers entitled to old-age or disablement allowances who fulfil the following conditions:

(1) Great seniority with the firm;

(2) Great seniority in their trade union.

These supplements, which may be accumulated, are DM 10 for 10 years' seniority, DM 25 for 20 years, DM 35 for 30 years and DM 45 for 40 years.

Widows' pensions are also increased by DM 30 per month for 24 months if the deceased husband had been or would have been entitled to an additional allowance.

II. FRANCE

Introduction

The French building and public works trades enjoy a series of supplementary old-age schemes. Each category of employment has a fund of its own, as follows:

(1) Supplementary pensions scheme for workers, introduced by the national agreement of 13 May 1959 and made statutory by a Ministerial order of 2 March 1960: administered by a joint body, the national pensions fund for building trade and public works operatives.

(2) Clerical workers, technicians and foremen have two separate schemes, one for the building trade and the other for public works. The former was introduced by the collective agreement of 29 May 1958, and the latter by that of 18 January 1956. Unlike the agreement for the workers, no order has been issued making their provisions statutory for firms affiliated to the signatory organizations. However, the national inter-occupational agreement of 8 December 1961 for the generalization of supplementary schemes has made them compulsory for all building firms. These schemes are managed by the building trade and public works Fund.

(3) Management has an inter-occupational scheme introduced by a collective agreement of 14 March 1947, made statutory by Ministerial order of 31 March 1947. In consequence, all firms represented on the French national employers' Council are bound by this agreement.

(4) Finally, there is an optional supplementary pensions scheme for top management, introduced at the behest of their federations. There is no collective agreement attached to it, so that it is not binding on employers. It ensures top managers a further pension in addition to the inter-occupational scheme and that of the social security system.

Here we shall only examine schemes for workers, clerical staff and technicians. The management scheme is inter-occupational, and, as such, not characteristic of the building trade. It will be examined in a future study of

all supplementary schemes. However, it should be noted that occupational schemes for workers, clerical staff and technicians are not confined to the building trade, but illustrate the importance, in France, of supplementary pensions schemes, as shown by the collective agreement of 8 December 1961, and the Ministerial order of 27 March 1962, making supplementary schemes statutory for all sectors represented on the French national employers' council.[1]

A. Supplementary pensions scheme for building trade and public works operatives

Financing

The scheme is financed jointly by employers and workers. The total contribution is 3.50% of the wage, the former paying 2% and the latter 1.50%.

Entitlement

Pensionable age is fixed at 65, but the worker is not obliged to retire then: he may continue to subscribe to the supplementary scheme, thus acquiring additional pension points.

Anticipated retirement may take place at 60 onwards. A reduction in pension is made, unless the pensioner is recognized by the social security scheme as unfit for work.

At retirement, the pensioner must have accumulated 650 pension points, representing a minimum of five years' affiliation at an average wage, or have bought himself into the scheme by a capital payment at the time of retirement.

Calculation of the pension

The method of calculating supplementary pensions is identical for all French schemes, and is based on "points".

Yearly contributions are credited to individual accounts. Total subscriptions are divided by a "reference wage" for the scheme, fixed each year.

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[1] These provisions will be analysed in a future study of all schemes supplementary to social security systems.

The figure thus obtained gives a certain number of points. When the worker retires, he is credited with all the points he has accumulated during his working life.

The agreement provides for the validation of services rendered before the scheme came into force, for which no contribution was paid.

The amount of the pension is calculated by multiplying the total number of points acquired by the value of each point for the current year. Points values are revised each year by the scheme's fund.

In 1961, the average pension paid was FF 840, but this was for the first year of the scheme, and was influenced by the flat rate caused by reconstituted careers for those who were working before the scheme came into force. This average will certainly increase, and it is believed that supplementary schemes in most occupational sectors will tend to provide a pension of 20% of earnings.[1]

Reversion pensions

If the insured person dies, the surviving spouse is entitled to a reversion pension of 60% of the value of the points acquired by the deceased. Orphans who have lost both parents receive a pension based on 20% of the points until they reach 21.

Increases

Increases for age: insured persons born before 1 January 1890 have their points increased by 10%.

Those who have worked for the same firm for more than 20 years and who are not yet 65 are entitled to an increase of 5%.

Increases for dependent children: for both direct and reversion pensions, points are increased by 10% for each dependent child under 18, raised to 20 for dependent students, and without limit if the children are handicapped.

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[1] See "Les régimes complémentaires de retraite", in the special issue of "Droit social", July-August 1962.

B. Supplementary pensions scheme for clerical staff, technicians and foremen

Beneficiaries

These categories, up to a certain grade, are members of this scheme provided they have spent five years in the occupational sector. They cannot join the scheme until they are 21.

Financing

The contribution is 4%, half being paid by each party. Optionally, this figure may be increased to 8%. Contributions vary with the salary earned.

There are 12 classes of beneficiary, depending on the previous year's salary, the salary on which contribution is based being the maximum for the class to which the participant belongs. The highest class includes all salaries equal or superior to three times the social security ceiling (FF 10 440 per annum on 1 January 1963).

Entitlement

As for workers. However, no minimum affiliation is required.

Benefits

As for workers.

III. NETHERLANDS

In the Netherlands, as in France, supplementary pensions schemes introduced by collective bargaining agreements have flourished. Unlike France, however, the Netherlands law has not made these schemes statutory, but most occupations have a scheme of this kind, especially the building trade, where a "pension fund" was set up in 1951.[1]

[1] There is a separate fund for housepainters.

Beneficiaries

All workers of 19 and over, covered by a collective agreement, and working for a building firm, as well as some categories of self-employed workers.

Financing

Half the contribution is paid by each party. It is 1% of the daily wage laid down by agreement for a "wage group". In the case of Group 5, Class 1, it is Fl. 1.10 per working day (five-day week). Self-employed workers pay a monthly contribution equal to 20 times this amount.

Benefits include old-age and widows' pensions.

Old-age pensions are paid at 65 at the earliest. They are not based on earnings, but on contributions made since the scheme came into force. Each full year of contributions currently gives rise to a pension of Fl. 26.40, so that a complete career of 46 years would entitle a worker to Fl. 1 234.40 of annual pension. For years previous to 1951, temporary regulations validate the services of workers born before 1925 who were working in the building trade before 1951.

On 1 June 1964, widows' pensions stood at Fl. 520 per annum if contributions had been paid regularly since 2 July 1951. If this was not the case, the pension was calculated pro rata.

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[1] The abbreviations (f, d, i, n, e) indicate the languages in which the documents have been published: f = French; d = German; i = Italian; n = Dutch; e = English.

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