



21.5.2019

## NOTICE TO MEMBERS

**Subject: Petition No 0969/2018 by W.S. (German) on the introduction of harmonised private supplementary health insurance across the EU**

### 1. Summary of petition

The petitioner is of the view that increasing recourse to private supplementary health insurance is a highly important policy question in ageing European societies. The petitioner is unsatisfied with the current legislative frameworks in place, and calls for their harmonisation across the EU. In particular, the petitioner objects to the alleged practice of certain insurance companies as regards the automatic cancellation of long-term insurance contracts following the non-payment of an instalment, and the retention of the paid-in capital. The petitioner believes that introducing harmonised measures on the provision of supplementary health insurance could lower the public health costs of Member States over time.

### 2. Admissibility

Declared admissible on 4 February 2019. Information requested from Commission under Rule 216(6).

### 3. Commission reply, received on 21 May 2019

Long-term care has undoubtedly started to become an issue in modern social protection and it is undergoing constant growth due to the ageing of the population. The information available to date leaves no doubt that there is great diversity in Member States' policy responses for long-term care, in accordance with their perceived needs, social traditions, culture and financial means.

The right to adequate social protection is one of the fundamental values and objectives of the European Union (Article 3 (3) TEU). In addition, the Treaty on the Functioning of the European Union (TFEU) expressly provides for the Union's powers towards the achievement of a number of social objectives (Article 151 TFEU), including the promotion of adequate social protection and the fight against exclusion.

The EU Charter of Fundamental Rights also provides (Articles 25 and 34<sup>1</sup>) for the right for the elderly to adequate social protection against dependency. The European Pillar of Social Rights, which seeks to strengthen the social dimension of the Union and enhance Member State convergence in social performance, under principle 18, also stipulates 'everyone's right to affordable long-term care services of good quality, in particular home-care and community-based services'<sup>2</sup>.

In this respect, the Union has competence to legislate in the area of social security and social protection of workers (Article 153 §1c TFEU), but the definition of the fundamental principles of social security systems remains a responsibility of Member States (Article 153 §4 TFEU) and any EU action should not significantly affect the financial equilibrium of national social security systems (Article 153 §4).

Furthermore, free movement of workers is also one of the objectives of the European Union (Article 45 TFEU) and in accordance with Article 48 TFEU, Regulation (EC) No 883/2004<sup>3</sup> aims at facilitating the free movement of insured persons, while at the same time guaranteeing a form of continuity to their social protection when they move around the Union. However, this Regulation only provides mechanisms for coordination of national social security systems and excludes the establishment of common social security rules which are applicable in all Member States.

In addition, Article 168 (7) of the TFEU specifies that "Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them".

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<sup>1</sup> Article 25: 'The union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life'. Article 34§1: "The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as (...) dependency or old age (...) in accordance with the rules laid down by Union law and national laws and practices.

<sup>2</sup>[https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en)

<sup>3</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), *OJ L 166, 30.4.2004, p. 1–123*.

## Conclusion

Taking into account the above, the Commission cannot take action in the present case.

The Commission underlines nonetheless that, within the framework of the Open Social Method of Coordination (OMC)<sup>4</sup>, the EU fosters cooperation and exchange of good practices among Member States. At the moment, the Commission is working with Member States (via the Social Protection Committee)<sup>5</sup> to establish a common portfolio of monitoring indicators which can provide a better analysis of the long-term care provisions in the European Union and guide policy action.

Issues related to long-term care are also addressed within the context of the European Semester<sup>6</sup>, which is the framework for the coordination of economic and social policies across the European Union. A number of Member States have already received, following their overall assessment in social policy fields, country-specific recommendations inviting them to address their policy provisions on long-term care. However, it should be noted that issuing such recommendations is generally done following the overall assessment of the Member States' performance and based on a common portfolio of indicators agreed by all Member States for a particular policy area. As mentioned above, the establishment of a portfolio of common indicators is currently ongoing.

The European Union also provides resources (via the European Structural and Investment Funds<sup>7</sup>) for the development of and the increasing access to social services, including in the area of long-term care.

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<sup>4</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:em0011>

<sup>5</sup> <http://ec.europa.eu/social/main.jsp?catId=758>

<sup>6</sup> [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-economic-governance-monitoring-prevention-correction/european-semester_en)

<sup>7</sup> [https://ec.europa.eu/info/funding-tenders/funding-opportunities/funding-programmes/overview-funding-programmes/european-structural-and-investment-funds\\_en](https://ec.europa.eu/info/funding-tenders/funding-opportunities/funding-programmes/overview-funding-programmes/european-structural-and-investment-funds_en)