

Report to the federal Parliament: Entitlement to a public sector pension benefit concurrently with an earned income or an income substitution allowance

The Belgian Court of Audit forwarded to the federal Parliament an audit report on the entitlement of a public sector pension benefit concurrently with an earned income or income substitution allowance. It pointed out a deficient control over the abidance of the legislation regarding concurrent benefits.

The Court's audit showed that a control only happens when an income earned from work or an income substitution allowance has been declared by the retired workers themselves. The lack of a consistent controlling procedure is even more acute when the regulations do not make provision for a mandatory reporting of benefits as in the case of an income derived from the exercise of a political or administrative assignment. Moreover, when the mandatory disclosure is laid down by law, penalties for failing to comply with the mandatory reporting are rarely or never applied.

The Court recommended the Public Sector Pension department to urgently organize a data-driven control over the concurrent benefits for all retired workers, irrespective of their nature. In addition, the Public Sector Pension department must effectively implement the prescribed penalties to the retired workers and the employers who flout the reporting obligation.

On a certain number of points the legislation relating to the public sector concurrent benefits differs without apparent reason from the regulations applicable to wage-earners and self-employed workers. As things stand, the entitlement to pension benefits concurrently with an earned income or an income substitution allowance is allowed in such and such a pension scheme arrangement, but is not in another one thereby preventing a quick file processing of, especially in the case of mixed careers, and generates a feeling of legal insecurity among pensioners.

Therefore, it is necessary to harmonize the concurrent benefit rules contained in the three main pension schemes (the Public sector Pension department, the National Pension department and the National institute of social insurance for self-employed workers).

Finally, the Court highlighted several problems in relation with the control regulation and organization that are not attributable to the public sector pension department's responsibility but hinder the enforcement of the legislation relating to concurrent benefits. Some of them make it particularly difficult for the pensioner to get a correct and timely estimate of his professional activity impact on his pension benefit. Factors are, among others:

- the too complex regulations governing the concurrent payment of a survivor's pension and an income substitution allowance, so that any control is made practically impossible;
- the not very appropriate method to add the holiday bonus to the earned income, so that the check on the income derived from a professional activity cannot be completed within a reasonable time ;
- the late setting of annual caps on permitted work ;

- the absence of consultation among the various pension departments, especially between the public sector Pension department, on the one hand, and the National Pension department and the National Institute of social insurance for self-employed workers, on the other hand, resulting in superfluous work and a lack of uniformity in the enforcement of the concurrent benefit regulations ;
- the underuse of the expertise of the respective pension entities, as a professional activity is not systematically checked by – or in cooperation with – the pension service « specialized » in the field related to the concerned professional activity.

The Court recommended to quickly remove these obstacles to the control regulation and organization.

The Minister for Pensions and Large Cities subscribed to the Court's conclusions and recommendations. He indicated that hopefully he would shortly be able to put forward concrete action for a greater transparency and a control simplification of the concurrent payment of a public sector pension benefit and an earned income or an income substitution allowance.