

Report to the Federal Parliament: Financing and control of separate holiday funds

October 2011 - The blue-collar workers' holiday bonus is established and paid either by the National Annual Holiday Office (one of the existing public social security bodies) or by eleven separate holiday funds. These funds are non-profit organizations. In 2009, the payments carried out through these two channels amounted to respectively 2,637 and 1,910 million euros. In its report to the Federal Parliament the Court of Audit examines how the system is organized and how it is financed. Furthermore it investigates the monitoring and control of these funds by the National Annual Holiday Office. The Court of Audit draws the attention to the shortcomings of the current financing system allowing the separate holiday funds to administer substantial financial resources. It also indicates there are deficiencies in the way these funds have to jointly contribute to the preservation of the system's financial balance. It concludes that the National Annual Holiday Office exerts too little control on these funds.

Background

Holiday pay for workers is financed by employers' contributions. The National Social Security Office (NSSO) collects them (with a few exceptions). The NSSO then transfers them to the National Annual Holiday Office, which ensures their further distribution. As holiday bonuses are paid in the year following the year during which labour was performed, both the National Annual Holiday Office and the separate holiday funds have the opportunity to invest these resources. The separate holiday funds are fully autonomous in this field. Revenue from these investments is used to finance administrative expenses. As far as the National Annual Holiday Office is concerned, revenue surpluses always return to the system (the Office also administers the reserves built up by the system). The separate holiday funds, on the contrary, are authorized to keep their surpluses. In 1965, however, a solidarity mechanism was instituted (the so-called financial reconstruction contribution). Through this mechanism, investment revenue of separate holiday funds partly returns to the National Annual Holiday Office. If investment yields are too low, the financial reconstruction contribution can lead to extra financing from the holiday funds.

The existing financial system

The Court of Audit assessed that the quality of the performances of such a separate holiday fund does not affect the terms of financing, and that its financing doesn't take into consideration the actual internal financial flows. Investing vast financial resources does not rely on explicit and uniform standards and there are no formal agreements about financial responsibilities in case a separate holiday fund should default. There is also a fragmentation of the system's financial resources and reserves, which can imply less revenue for the system. Nor does the existing system stimulate separate holiday funds to reduce their administrative expenses. Yet, through the reserves of the separate holiday funds, these expenses play an important part in the calculation of the financial reconstruction contribution. The expenses incurred by separate holiday funds are higher than the expenses incurred by the National Annual Holiday Office.

The system has never been changed fundamentally (apart from the financial reconstruction contribution that was introduced in 1965). Consequently, the Court of

Audit recommends that a complete change of this finance system should be looked into. It should be kept in mind that certain separate holiday funds collect employers' contributions themselves, and that one of them collects these contributions via a subsistence protection fund, which means that the National Annual Holiday Office does not exert any form of control whatsoever on holiday pay allowances they administer on a temporary basis. It could be a solution to centralize revenue at the National Annual Holiday Office level and to finance the separate holiday funds at the moment they need financial resources.

If the present financing system is maintained, it is advisable to introduce uniform rules to administrate the investments and reserves of the separate holiday funds. Apart from that, an actualization of the financial reconstruction contribution is to be considered, as well as an updating of the contribution to data processing expenses. It is also necessary to find a formal answer on how the National Annual Holiday Office has to react when a separate holiday fund does not have enough available funds for paying holiday bonuses.

The existing monitoring system

Supervision by the National Annual Holiday Office on the separate holiday funds needs to be extended. At present this supervision is limited to surveying whether holiday pay regulations are observed by the separate holiday funds (also called social control), and to an accounting control within the scope of settlements of accounts between the separate holiday funds and the National Annual Holiday Office. The Court of Audit backs the proposal the National Annual Holiday Office made to the separate holiday funds in 2009 and considers that they must handle operations in their accounts more uniformly. They should also standardize explanatory statements.

Although existing social and accounting controls have proved to be useful, there is room for improvement. They are for instance limited to the legal holiday bonus and to the number of days off prevailing for all sectors. Some sectors, however, award supplementary holidays and bonuses on an extra legal basis (mostly via collective agreements). Even though the regulation contains a general definition of the holiday bonuses that have to be controlled (including this extra legal part), the National Annual Holiday Office pays little attention to it. Furthermore, some separate holiday funds hardly make any distinction between the legal part and the extra legal part in their accounts. This causes uncertainty about the exactitude of the financial reconstruction contribution that has been calculated. The National Annual Holiday Office's monitoring of this extra legal part should therefore be reconsidered.

The social control mainly focuses on checking individual files. Because of the considerable number of files it is not possible to make an effective statement on the correct implementation of regulations by the separate holiday funds. The Court of Audit recommends that system-based audit methods should be implemented.

Through consultation with the separate holiday funds the National Annual Holiday Office targets a standardization of the regulations for granting the right to holiday and to holiday bonus. At the same time it aims at harmonizing the procedures the different holiday funds are to follow. This consultation, however, does not always lead to concrete agreements and instructions. The separate holiday funds keep a certain degree of freedom, for instance for the way they take into consideration days on which no labour has been performed but which are assimilated with working days. The annual holiday payment system being a system that is based on solidarity, the

level of assimilations also has an impact on global reserves. Therefore the National Annual Holiday Office has to incorporate more concrete and controllable agreements in the instructions.

The National Annual Holiday Office experiences the absence of practicable guiding instruments in regulation as an impediment to this harmonization. When adapting the financing system or the financial reconstruction contribution, it would be possible to introduce a financial reward (or a financial penalty) depending on a periodical evaluation, just as it is the case with the other financial guidance mechanisms in other social security branches. This evaluation would go beyond the sole compliance with regulations and it could include the more general functioning of the separate holiday funds.

By way of conclusion the Court of Audit pointed out some possible improvements in the accounting control and in the follow-up by the National Annual Holiday Office of deficiencies that were identified at the separate holiday funds.

Minister's response

The Minister of Labour has shown great interest in the Court of Audit's findings. In the first place the Minister refers to the absence of unified rules for the administering of the financial resources of the separate holiday funds, to the fact that performances are not being linked to the calculation of the financial reconstruction contribution, to the obsolescence of this reconstruction contribution that takes insufficiently into account the separate holiday funds' resources and to the inefficiency of the National Annual Holiday Office's control of these funds. The Minister asked the social partners who are members of the National Annual Holiday Office's management committee to develop efficient solutions soon.