

## Part V: Conclusions



# Life in Dignity Through Minimum Income Protection: Conclusions from a Comparative Perspective

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## I. Relevance and Challenges of Minimum Income Protection

The chapters in this volume show that minimum income protection has, in various forms, become a consolidated component of modern welfare states. Minimum income measures now play a central role not only in ‘mature’ welfare regimes, but also in countries with less-developed social protection systems. In most of the countries examined, minimum income schemes serve as essential pillars of last-resort support, particularly during times of socioeconomic crisis. They have, in many cases, demonstrably contributed to reducing poverty,<sup>1</sup> or at the very least, mitigated certain dimensions of deprivation among the most vulnerable population groups.

Yet, despite their presence and recent expansion, minimum income schemes continue to exhibit significant shortcomings across the countries analysed. Their ability to lift individuals and households out of poverty remains severely constrained. These findings reinforce the results of previous

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1 See Ireland, where social transfers play a significant role in reducing poverty (chapter on Ireland, p. 195) and Brazil, where figures show that *Bolsa Família* contributed to lifting 3.4 million people out of extreme poverty, and 3.2 million out of poverty (Brazil, p. 427), or Chile, where the share of the population living below the national poverty line fell from 36 per cent to 10.8 per cent between 2000 and 2020 (Chile, p. 433).

research which has found that minimum income protection – particularly for the non-working, working-age population – often falls short of providing adequate protection against poverty.<sup>2</sup> In many of the countries analysed, the share of those living below the poverty threshold is particularly high or exceeds regional averages.<sup>3</sup> A comparative legal analysis supports this factual conclusion from both a normative and institutional perspective: in several countries, minimum income schemes are, often by deliberate design, characterised by insufficient benefit levels, strict and invasive means testing rules, structural exclusions from eligibility and stringent (labour-related) conditionalities and sanctions. Particularly noteworthy is the recent reform in Italy, where, in contrast to general trends elsewhere, the approach to inclusiveness and universality of minimum income protection has been reversed. Consequently, income inequality remains persistently high in several of the countries analysed, and minimum income protection remains far from meeting its promise of securing a life in dignity for all.

The authors in this volume attribute these shortcomings to various structural and design-related factors, such as the schemes' limited coverage due to strict means testing or eligibility reasons,<sup>4</sup> persistent structural determinants of inequality,<sup>5</sup> and the inadequacy of the benefits provided.<sup>6</sup> Importantly, each country faces its own specific set of challenges. For example, countries with comparatively effective minimum income schemes may struggle to ensure stable and adequate funding (as in Brazil), or to regularly adjust benefit levels (as in Ireland). In several countries, including Brazil and Mexico, overly bureaucratic and complex delivery mechanisms undermine accessibility to benefits. Political polarisation and narratives of welfare dependency continue to shape debates in countries including Bulgaria and Italy, while in others, such as Brazil and Chile, measurable success in poverty reduction has cultivated broad political consensus. The poverty rate in some countries is characterised by profound territorial (e.g. Brazil and Italy) or racial (e.g. Brazil and Mexico) disparities, while in others, there is a recognised need to improve the situation of particularly

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2 See, *inter alia*, S. Marchal and I. Marx, *Zero Poverty Society: Ensuring a Decent Income for All* (Oxford University Press 2024), pp. 1-14.

3 Especially high or above the regional average poverty levels have been highlighted in particular in the chapters on Bulgaria, Poland, Mexico, Spain, Italy and Greece.

4 This is the case, for instance, in Mexico, Greece, Italy, Poland, Bulgaria, the Republic of Korea and Japan.

5 As noted in particular in South American countries.

6 *Inter alia* in Greece, the United Kingdom, Poland, Mexico and Italy.

vulnerable groups, such as the elderly (in Poland or Chile) or children (for instance in Germany). While these examples are illustrative rather than exhaustive, they highlight the diversity of policy contexts and institutional challenges in which minimum income protection schemes operate today.

Bearing in mind each country's diverse factual and normative contexts, the comparative insights do not aim to assess the minimum income schemes' "effectiveness" or generosity.<sup>7</sup> Instead, they seek to examine these schemes through a normative lens grounded in the idea of safeguarding the recipients' dignity. This reflects the principle of a rights-based approach to social assistance which was developed in the years following the Second World War.<sup>8</sup> From a dignity perspective, individuals should have access to the means necessary to lead a minimally decent life by virtue of the dignity they possess as human beings, and not as a reward for compliance, a tool to achieve behavioural improvement, a means to boost the country's economic growth or to improve overall societal well-being. From this perspective, it becomes increasingly clear that, depending on their design and implementation, social protection measures intended to guarantee a "life in dignity at all stages of life"<sup>9</sup> may, paradoxically, threaten the very right they seek to uphold.<sup>10</sup> The safety net of minimum income protection can become a trapping net, if the individual recipient's dignity is disregarded.

Drawing from the country-specific studies, we can critically reflect on how dignity is either operationalised or neglected in the design and implementation of minimum income schemes. When looking at minimum income through a dignity-based lens, a pressing need to rethink the multiple layers of minimum income protection measures becomes clear: from benefit levels to eligibility criteria and the narrative of deservingness that

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7 This is a task more suitably undertaken by social policy research. See, for example, the substantial work conducted by the OECD in assessing the reliability and adequacy of minimum income protection schemes in several developed countries, with results available here: OECD, 'How reliable are social safety nets in situations of acute economic need?' (20 December 2024) < [https://www.oecd.org/en/publications/how-reliable-are-social-safety-nets-in-situations-of-acute-economic-need\\_568bb35b-en.html](https://www.oecd.org/en/publications/how-reliable-are-social-safety-nets-in-situations-of-acute-economic-need_568bb35b-en.html) > and here: OECD, 'Income support, redistribution and work incentives' < <https://www.oecd.org/en/topics/income-support-redistribution-and-work-incentives.html> > both accessed 14.6.2024.

8 See Introduction, pp. 17-18.

9 Council Recommendation of 30 January 2023 on adequate minimum income ensuring active inclusion (2023/C 41/01), recital 1).

10 G. Vonk and E. Bambrough, 'The human rights approach to social assistance: Normative principles and system characteristics' *European Journal of Social Security* 22 (2022)4, pp. 376-389, 377.

underpin conditionalities. Applying this lens requires an analysis not simply of whether given population groups receive certain benefits, but also whether they possess an enforceable or subjective right to claim these, or whether the benefits are provided as discretionary charity. It also requires examining whether the aim is to ensure recipients a life in dignity or to limit the opportunity to rise above the poverty threshold to “deserving” individuals only. If we are to take the normative claim that all individuals are entitled to a life in dignity seriously – regardless of whether they have “earned” this entitlement – then the architecture of minimum income protection must be restructured accordingly.

## II. Insights from the Normative Frameworks

### 1. Minimum Income Protection as a State Obligation

Not all jurisdictions investigated have an explicit constitutional background that grounds minimum income protection as a declination of human dignity. While constitutional protections of human dignity exist in Spain, Ireland and France, for instance, these do not serve as a basis for granting social rights and minimum income protection is not considered a realisation of a right to dignity.<sup>11</sup> Countries where (constitutional) legislation, case law or literature have explicitly identified a normative basis for minimum income protection in the guarantee of human dignity include Germany,<sup>12</sup> Norway,<sup>13</sup> Poland,<sup>14</sup> Slovenia,<sup>15</sup> Greece,<sup>16</sup> the Republic of Korea,<sup>17</sup> Chile<sup>18</sup>

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11 Ireland, p. 178, Spain, p. 345, France, pp. 80 ff.

12 Where “the fundamental right to the guarantee of a subsistence minimum is derived from the principle of human dignity in Article 1.1 of the Basic Law in conjunction with the principle of the welfare state in Article 20.1 of the Basic Law”, Germany, p. 116.

13 Norway, pp. 256 ff.

14 “The principle of social justice is normatively and axiologically linked to the principle of human dignity that is formulated explicitly in Article 30 of the Constitution. Both principles are invoked in the jurisprudence of the Constitutional Court, in order to specify the scope of the legislator’s freedom in defining social rights”, Poland, pp. 275-276.

15 Slovenia, p. 315.

16 Greece, pp. 150 ff.

17 The Republic of Korea, p. 540.

18 Chile, p. 439.

and Mexico,<sup>19</sup> although the precise scope and expression of this dignity-based approach, as well as its implications for the right to a minimum income, vary considerably. In some countries, dignity is only invoked in relation to specific social benefits.<sup>20</sup>

What is of relevance for this analysis is not so much whether the concept of dignity in a given country is explicitly linked to minimum income, but rather whether the guarantee of a minimum income is treated as a subjective right of the individual, or is at least a constitutional obligation of the State to protect the rights of the individual. This distinction allows us to assess whether minimum income is guaranteed as a discretionary hand-out or as the fulfilment of a rights-based obligation by the State.

A right to social assistance, which is either directly enshrined in the Constitution or derived from constitutional case law, exists in Brazil, Bulgaria, Greece, Norway, Japan and Germany. In many cases, this recognition is the result of relatively recent reforms or shifts in case law. In Brazil and Greece, for example, recent amendments explicitly frame the right to social assistance as a right to minimum income. Brazil's 2012 constitutional provision not only recognises a right to a basic family income, but also stipulates that it must be guaranteed through a permanent and universal cash transfer programme.<sup>21</sup> In Greece, the 2019 constitutional reform introduced an obligation for the State to ensure decent living conditions through a guaranteed minimum income system established by law.<sup>22</sup> Thus, in these countries, the abolition of the minimum income scheme would be considered unconstitutional. Similarly, a fundamental right to a minimum level of subsistence that safeguards human dignity has also been recognised by the German Federal Constitutional Court following its landmark judgment of February 2010.<sup>23</sup> This constitutional right is subjective and enforceable. In Norway, a 2014 constitutional reform introduced, for the first time, provisions on the enforceable right to a minimum level of subsistence for children and

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19 "[T]he right to the minimum conditions for life has been derived from a systematic interpretation of the fundamental rights enshrined in the General Constitution, among which are Articles 1 (dignity), 3 (education), 4 (social human rights), 27 (private property) and 123 (right to decent work and minimum wage)", Mexico, p. 475.

20 See Italy, where dignity has been interpreted as a constitutional standard relevant to the granting of a right to housing, p. 203.

21 Brazil, pp. 417-418.

22 Greece, p. 157.

23 Germany, p. 116.

for those unable to support themselves.<sup>24</sup> In Japan, the constitutional right to life includes the right to maintain a minimum standard of living and explicitly forms the normative basis of the social assistance system.<sup>25</sup> In Bulgaria, the Constitution provides for a right to social security and social assistance, framed as an objective obligation of the State.<sup>26</sup>

Other constitutional frameworks do not explicitly guarantee the right to minimum income or social assistance but express a broader commitment to social protection by declaring a right to social security. In some cases, this has been interpreted broadly by constitutional case law to include social assistance. For instance, Chile's Constitution refers to the right to social security, but provides a very weak constitutional basis for non-contributory assistance.<sup>27</sup> The Constitutional Court has not yet ruled on whether the right to social security encompasses non-contributory social protection. In Slovenia, on the other hand, although the right to social assistance is not explicitly mentioned, the Constitutional Court has interpreted the State's duty under the principle of the social state to include an obligation to support those in need as a matter of human dignity.<sup>28</sup> Similarly, the Spanish Constitutional Court has affirmed that the "social security system's" scope is not limited to insurance-based social protection, but also encompasses social assistance benefits.<sup>29</sup> In Italy, while Article 38 of the Constitution does not establish an explicit right to minimum income, the Constitutional Court has acknowledged the State's responsibility to provide benefits that are essential for alleviating situations of extreme deprivation.<sup>30</sup> The Republic of Korea offers a more robust constitutional commitment: Article 34 explicitly guarantees the right to a decent life through social security, interpreted as imposing a constitutional duty on the State to ensure a minimum standard of living for all citizens.<sup>31</sup> In Mexico, the Constitution guarantees the right to social security for workers, without establishing a universally enforceable right to social protection that applies to all citizens. Instead, the constitutional right to a vital minimum is limited to particularly vulnerable groups – such as persons with permanent disabilities, indigenous peoples, Afro-

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24 Norway, p. 249.

25 Japan, pp. 503 ff.

26 Bulgaria, pp. 42 ff.

27 Chile, pp. 439-440.

28 Slovenia, pp. 317-318.

29 Spain, p. 346.

30 Italy, pp. 202 ff.

31 The Republic of Korea, p. 540.



Mexicans, the elderly and students.<sup>32</sup> This “categorical” approach, which singles out specific vulnerable population groups and guarantees them a higher standard of social protection, is a recurring pattern across many of the countries analysed. In Bulgaria, constitutional protection is provided for children and mothers.<sup>33</sup> Similarly, marriage, family and motherhood are explicitly protected in Poland.<sup>34</sup> In Norway, children are covered by a specific constitutional provision regarding minimum income.<sup>35</sup> In Greece, “special care” and “special measures” are provided to several vulnerable population groups, as well as to large families and persons with disabilities.<sup>36</sup> In general, provisions for persons with disabilities and the elderly are common across the constitutional frameworks analysed.<sup>37</sup> In Ireland, the Constitution also makes explicit reference to widows and orphans.<sup>38</sup>

As noted by several authors, these particular groups often find themselves in a situation of need through no fault of their own.<sup>39</sup> This points to a distinction between “deserving” and “undeserving” poor. Typically, protection is extended to citizens who are deemed disadvantaged due to circumstances that are beyond their control, such as age, disability or caregiving responsibilities. While these groups are undoubtedly in need of support, the underlying rationale reinforces a logic of conditional deservingness, implying that assistance is primarily warranted for those not responsible for their socio-economic situation. From a normative perspective grounded in dignity, such fragmentation undermines the idea that all individuals are entitled to a minimum level of subsistence and a decent life simply by virtue of their human dignity.

Among the countries analysed, only the United Kingdom lacks specific recognition of an enforceable right to social security or social assistance. However, Articles 3 and 8 of the European Convention on Human Rights which has been incorporated into the country’s national legislation, impose an obligation on the State to provide a minimum subsistence in certain situations, albeit granting the legislature an exceptionally broad margin

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32 Mexico, p. 473.

33 Bulgaria, p. 42.

34 Poland, p. 277.

35 Norway, pp. 257-258.

36 Greece, p. 155.

37 See, *inter alia*, the chapters on Poland, the Republic of Korea, France and Ireland.

38 Ireland, p. 180.

39 Bulgaria, p. 45.

of discretion.<sup>40</sup> Yet, even in countries where enforceable rights are constitutionally recognised, they often protect only the minimum core of the right to a life in dignity. Legislatures retain broad discretion in defining key elements such as the amount of cash benefits and what constitutes a minimum level of subsistence,<sup>41</sup> influenced by budgetary constraints<sup>42</sup> and Constitutional Courts' deference to legislative authority.<sup>43</sup> Consequently, the scope, strength and practical enforceability of these rights vary significantly across countries, with accessible or adequate minimum income protection largely left to legislative discretion.

## 2. Normative Conceptions of a Life in Dignity

Regardless of whether a constitutional obligation to guarantee a minimum level of subsistence exists – as we have seen, its scope and purpose vary considerably – the normative conceptions of what constitutes a dignified and decent life differs markedly in the countries analysed. One way to understand the definition of a “life in dignity” is by examining the underlying assumptions embedded in the design of the different countries' minimum income benefits. In other words, the answer to the question “What does a life in dignity entail?” is rooted in the choices about what minimum income benefits are intended to cover: whether they are aimed at covering to basic nutritional needs only, or also at enabling participation in social and cultural life, including access to transport, the internet or leisure activities. Depending on the legal system, the normative guidelines for defining a minimum standard of living are either shaped directly by the country's constitutional framework or largely left to the legislature's discretion.

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40 The United Kingdom, pp. 381-382.

41 See, for instance, Bulgaria, where the realisation of the right to social assistance is subject to the legislature's wide margin of discretion, p. 43; Ireland, where the judiciary habitually avoids interfering in the legislature's prerogatives, p. 178; Poland, where constitutional social rights are subject to the limits set by law, p. 277; Spain, where constitutional social rights can only be enforced before ordinary courts with respect to the legal provisions that implement them, p. 347; Japan, where it is at the legislature's discretion to define the specific scope of a “wholesome and cultured life”, p. 504; the Republic of Korea, where the Constitutional Court does not recognise the right to a minimum standard of living as directly enforceable, see p. 542; and Germany, where the determination of the minimum level of subsistence falls under the legislature's responsibility, p. 117.

42 See Italy, p. 204 and Slovenia, p. 318.

43 See France, p. 79, Ireland, p. 181 and the Republic of Korea, p. 542.

Nearly all countries analysed acknowledge, at least nominally, the need to cover basic subsistence requirements, typically defined as food, clothing and housing;<sup>44</sup> in some cases, these extend to health and hygiene. The case law in Mexico, for instance, includes health and a healthy environment within the right to a vital minimum.<sup>45</sup> Similarly, health is a cornerstone of the assistance schemes in Chile and Brazil.<sup>46</sup> In the United Kingdom, minimum subsistence usually refers to immediate and most basic and essential needs, such as accommodation, heating, food and hygiene.<sup>47</sup>

While situations of poverty that threaten the full enjoyment of the individual's fundamental right to life and health certainly undermine human dignity, it follows from the assumption that human beings are social creatures that their dignity is only fully guaranteed when they are also able to actively participate in society. Accordingly, not only poverty but also social exclusion constitutes a violation of human dignity. From this perspective, a dignified life entails not only the right to physical existence but also the right to be included in socio-political life and to be recognised as a "full" member of society.<sup>48</sup>

Several national constitutions link dignity with societal participation. For example, Italy's Constitution affirms that all citizens possess equal "social" dignity and the State has a duty to remove economic and social obstacles to individuals' effective participation in the country's political, economic and social life. The German Federal Constitutional Court also states that

44 See Bulgaria (where the basic needs are understood as "sufficient food, clothing and housing, according to the socio-economic development of the country"), p. 57 and Poland (where the social intervention threshold aims at avoiding a biological threat to human life and psychophysical development), pp. 284-285.

45 Mexico, p. 475.

46 Chile, p. 452 and Brazil, p. 425.

47 The United Kingdom, p. 380.

48 See, *inter alia*, C. Fabre, 'Social Rights in European Constitutions', in: G. de Búrca, B. de Witte and L. Ogertschnig (eds.), *Social rights in Europe* (Oxford University Press 2005), p. 17; U. Becker, 'Sozialmodell und Menschenbild in der „Hartz-IV“-Gesetzgebung', in: O. Behrends and E. Schumann (eds.), *Gesetzgebung, Menschenbild und Sozialmodell im Familien- und Sozialrecht* (De Gruyter 2008), p. 62; F. Ferraro, 'The Social Dimension of Fundamental Rights in Times of Crisis', in: S. Civitarese Matteucci and S. Halliday, *Social Rights in an Age of Austerity: European Perspectives* (Routledge 2017), pp. 197, 205, S. Huster, 'The Universality of Human Dignity and the Relativity of Social Rights', in: D. Grimm, A. Kemmerer and C. Möllers (eds.), *Human Dignity in Context* (Nomos 2018), p. 417; T. Bahle, 'Mindestsicherung im europäischen Vergleich', in: F. Blank, C. Schäfer and D. Spannagel (eds.), *Grund-sicherung weiterdenken* (transcript Verlag 2021), p. 246.

the right to dignity implies the “possibility of maintaining inter-human relations and a minimum of participation in social, cultural and political life”.<sup>49</sup> Hence, minimum income benefits must cover costs that are essential for ensuring such participation and the maintenance of social contacts.<sup>50</sup> In the Republic of Korea, the Constitutional Court suggests that the right to a minimum standard of living includes not only physical subsistence, but also opportunities to participate in socio-economic and cultural life.<sup>51</sup> In countries lacking explicit constitutional guidance in this regard, the legislative framework may provide guidance on the need to include societal participation within minimum income protection. For instance, in France, education, training and access to culture are included in the aims of the poverty alleviation measures. Telephone and internet connections are explicitly mentioned as essential components of decent housing.<sup>52</sup> In Japan, cash assistance must be sufficient to not only purchase food and clothing, but for transportation costs as well,<sup>53</sup> which is often crucial for full societal participation. In the South American countries analysed, the normative definition of minimum subsistence typically includes participation in education and culture. Education is explicitly part of the minimum income schemes of Chile, Brazil and Mexico.<sup>54</sup> More generally, in both Chile and Brazil, assistance measures are differentiated by their purpose: alleviation of extreme poverty or of poverty, respectively, understood as an inability of the individual to meet basic food needs or as a lack of access to a broader range of goods and services, such as education, culture or technologies.<sup>55</sup>

Whether these normative ideas are reflected in the concrete design and adequacy of the benefits provided by the different minimum income measures, however, is another matter, as will be illustrated below.<sup>56</sup> In many cases, a gap emerges between the normative ideal and the benefits actually provided. This discrepancy may not only be due to shortcomings in legislative implementation, but also to the balancing between competing

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49 German Federal Constitutional Court, Judgment of 9 February 2010 (BVerfGE 127, 175), available in English at < [https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2010/02/ls20100209\\_1bvl000109en.html](https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/EN/2010/02/ls20100209_1bvl000109en.html)>, accessed 14.6.2025.

50 Germany, p. 117.

51 The Republic of Korea, pp. 543 ff.

52 France, p. 84.

53 Japan, p. 521.

54 Chile, p. 452, Mexico, pp. 481 ff., Brazil, p. 425.

55 Brazil, pp. 424 ff., Chile, p. 457.

56 See Sec. III.2.a) of these Conclusions.

interests at the constitutional level. In Italy, for instance, despite the above-mentioned connection between dignity and social inclusion, the Constitutional Court acknowledged that the “irreducible core” of social assistance is limited to enabling beneficiaries to meet their basic dietary needs.<sup>57</sup> The Constitutional Court in Slovenia has also embraced both dimensions of minimum subsistence: while meeting beneficiaries’ cultural and other personal needs is recognised as representing a constitutional right to dignity, the legislature’s intent to limit coverage to the most immediate basic needs only is also upheld.<sup>58</sup> Norway provides a contrasting example in that the minimum level enshrined in the constitution is interpreted as providing only food, water, clothing, housing and healthcare, whereas ministerial regulations for social assistance explicitly include communication, hygiene, leisure and social needs. As a result, the level of benefits in Norway tends to exceed the constitutionally required subsistence minimum.<sup>59</sup>

### III. Dignity in the Implementation of Minimum Income Protection

#### 1. A Collaborative Task: Between Social Insurance, Targeted Schemes and Safety Nets

Reflections on the differing normative conceptions of a life in dignity reveal a wide spectrum of basic needs to be met by minimum income protection. These range from food and housing to clothing, hygiene, recreational activities and education. As a result, guaranteeing a life in dignity through social protection is only comprehensively achievable when all of these different dimensions and circumstances are adequately addressed. At present, there is a certain degree of fragmentation within minimum income protection systems. One of the starkest results of this comparative study is that minimum income protection systems are multifaceted. They may take the form of a universal scheme, categorical benefits aimed at specific vulnerable population groups, or targeted assistance designed to address individuals’ specific needs.<sup>60</sup> In some cases, minimum income functions

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57 Italy, pp. 203–204.

58 Slovenia, p. 318.

59 Norway, p. 265.

60 As correctly pointed out in the chapter on Slovenia: “the challenge of offering means for a dignified life to all members of society seems much broader than the challenge

are embedded within broader social insurance instruments.<sup>61</sup> Furthermore, certain social benefits, such as child allowances, initially introduced to achieve another objective, such as increasing fertility rates, have become functional to ensuring a minimum standard of living for families. This is evident in Bulgaria, Poland and Japan.<sup>62</sup>

The country reports also show that the fragmentation of social benefits is not necessarily negative, and might even be inevitable, given that a one-size-fits-all approach often fails to comprehensively address diverse needs and various life situations.<sup>63</sup> Admittedly, the most reliable method for ensuring a minimum level of subsistence for all individuals who fall below a certain poverty threshold remains the implementation of a universal minimum income scheme. This approach effectively establishes a uniform baseline of assistance, thereby eliminating any gaps in the social safety net. It should be noted that such schemes have now been adopted in nearly all of the countries analysed.<sup>64</sup> However, even countries that have adopted universal minimum income schemes supplement them with targeted programmes to address specific needs. Brazil, for instance, has implemented *Bolsa Família* as a safety net with universal coverage, but also provides distinct housing and food programmes.<sup>65</sup> This is considered an opportunity to provide more comprehensive assistance.<sup>66</sup> In Poland, purpose-specific allowances can be provided to cover certain expenses,

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of offering minimum income protection alone”, Slovenia, p. 313. See, also, the considerations by H. M. Adzakpa *Realising the Human Right to a Social Minimum? A Comparative Socio-Legal Study of EU Member States* (Nomos 2024), p. 276.

61 In the Republic of Korea, for instance, social insurance schemes include a minimum income function by establishing a minimum level of benefits, see p. 561. Similarly, Bulgaria provides minimum unemployment benefits and minimum contributory pensions, although these are set below the at-risk-of-poverty threshold, see p. 60. In contrast, Germany, does not define a minimum standard of benefits within its social insurance instruments, as noted on p. 121.

62 Bulgaria, p. 41, Poland, p. 303 and Japan, pp. 514-515.

63 See also H. M. Adzakpa (n 60), pp. 276-278.

64 See, *inter alia*, *Bolsa Família* in Brazil, the universal minimum guaranteed income scheme in Greece, Universal Credit in the United Kingdom, the Supplementary Welfare Allowance in Ireland, the Spanish MVI, the active solidarity income in France, the subsidiary social assistance scheme in Slovenia, periodic allowances in Poland, the *Chile Solidario* system in Chile and the *Bürgergeld* in Germany. Among the countries analysed, only Italy and Mexico do not have a universal social assistance instrument.

65 Brazil, pp. 421-422.

66 Brazil, p. 423.

including food, medicine, house repairs, funeral costs and similar items.<sup>67</sup> In Bulgaria, heating and rent allowances target individuals' housing and energy-related needs.<sup>68</sup> In several countries, inclusion in the minimum income scheme facilitates or entitles individuals to additional benefits, thereby institutionalising a systematic connection between the different schemes and programmes. This is exemplified by Chile's system of social protection.<sup>69</sup> In Greece, individuals who are eligible for minimum income benefits also have access to social tariffs for electricity and water.<sup>70</sup> In many cases, specific needs are already covered through the calculation of the cash benefit amount provided under the minimum income scheme. This ensures comprehensive protection for diverse living situations within the same social protection instrument. The United Kingdom is a good example, where the Universal Credit includes not only a standard allowance, but also provides supplementary components tailored to specific circumstances, such as disability, caregiving responsibilities, childcare and housing needs.<sup>71</sup> In Germany, recipients of the *Bürgergeld* are eligible for additional support to cover the costs of accommodation and heating beyond the standard levels of need.<sup>72</sup> Similarly, in Norway, children's needs are accorded particular consideration in the calculation of benefits. For instance, costs for activities for children and youth may be included in the calculation, even if the same would not be covered for adults.<sup>73</sup>

The relationship between minimum income measures and other social protection instruments plays a crucial role. The different systems must be effectively coordinated to cover all possible life circumstances and income fluctuations over an individual's lifetime. For instance, various social benefits designed primarily for purposes other than providing a minimum standard of living should be compatible with social assistance. This is usually the case with social insurance benefits,<sup>74</sup> particularly when they are provided at amounts insufficient to guarantee minimum subsistence. In several countries, allowances meant to address specific needs

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67 Poland, p. 298.

68 Bulgaria, p. 57.

69 Chile, pp. 444 ff.

70 Greece, p. 170.

71 The United Kingdom, pp. 392 ff.

72 Germany, p. 134.

73 Norway, p. 268.

74 See Spain, p. 360, Slovenia, p. 330, Poland, p. 290, Greece, p. 160 and Germany, pp. 121 ff.

are excluded from the means test for eligibility for social assistance.<sup>75</sup> For instance, non-contributory disability benefits are excluded when they serve to compensate for specific needs arising from a disability.<sup>76</sup> In all of the countries examined, the elderly are recognised as a group requiring special protection,<sup>77</sup> which in some cases results in higher benefit amounts.<sup>78</sup> These two groups usually receive enhanced support in both types of countries, i.e. those with and those without a universal minimum income scheme. In Mexico, for instance, the only two poverty alleviation instruments with a universal character are non-contributory pensions for the elderly and financial support for persons with disabilities.<sup>79</sup>

However, depending on the design and interaction of the different schemes, substantial disadvantages may arise. A tangled network of measures may, first, obstruct the effective pursuit of coherent social policy goals, and second, accessibility to and effective coverage of the system.<sup>80</sup> The complex institutional landscape arising from overlapping schemes may undermine beneficiaries' ability to navigate the system and access the support they are entitled to. In instances where different social benefits are not cumulative, individuals often struggle to determine which benefit best suits their individual situation. Choosing one scheme might disqualify them from access to another.<sup>81</sup> This complexity is particularly pronounced

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75 In Greece "certain allowances, such as non-contributory disability benefits, education, vocational training and job-search allowances for unemployed persons, emergency financial assistance for natural disaster victims and support for labour market integration of homeless persons and domestic violence victims, are excluded from the calculation of household income", p. 160. In France, housing benefits are partially excluded from means test, p. 88. In Ireland, income from other social assistance or benefits payments are not included in the means test, p. 189. Similarly, in Italy, the Inclusion allowance "can be combined with unemployment insurance benefits and various social assistance benefits that are not counted as income. It is, moreover, fully compatible with the universal child benefit", p. 212. This differs in several countries, for instance, in Slovenia, where all social security and other benefits are taken into account when determining the amount of applicants' personal income, p. 327.

76 See for instance Bulgaria, p. 41, Greece, p. 160, France, p. 93.

77 See for instance Bulgaria, pp. 65 ff. and Chile, p. 442.

78 See France, where the benefits provided to elderly persons are higher than the Active Solidarity Income, p. 96 and Italy, where means testing is more lenient for old-age benefits, and social protection is more generous for beneficiaries that have reached the age of 70, p. 235.

79 Mexico, p. 493.

80 As already mentioned in the Introduction, p. 30.

81 In some cases, the interplay between different benefits is not only difficult for individuals to navigate, but also lacks clarity in the legislation, as in the case of the Republic



in countries where national minimum income schemes coexist with regional or local assistance measures.<sup>82</sup> The intricacies of these schemes might influence take-up rates and, more worryingly, create real gaps in the safety net.<sup>83</sup> Bulgaria is a clear example of this, as the minimum income function is provided through both social security, in the form of a guaranteed minimum amount, and through social assistance instruments. However, these schemes are mutually exclusive, and their combined eligibility requirements may exclude certain segments of the population from receiving any support.<sup>84</sup>

From the perspective of human dignity, the crucial concern goes beyond mere effective implementation issues and includes the normative assumptions underlying the fragmented protection schemes. Compartmentalised protection can undermine the principles of equality and reinforce narratives of “deservingness”. When benefits are fragmented, needs and entitlements could be assessed inconsistently, resulting in some individuals being deemed more deserving of support than others based on their life situation or on the specific social protection scheme they fall under.

## 2. Design of Minimum Income Schemes

### a) Benefit Amounts and their Adequacy

The definition of what constitutes a “minimum” within a minimum income protection system reflects the normative conception of a life in dignity endorsed by the State, as described above.<sup>85</sup> This conception should logically guide not only the system’s underlying principles but also the concrete determination of benefit amounts and types. The country reports demonstrate that in most cases, this normative understanding is not effectively translated into practice. The benefits provided under such systems

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of Korea, where the relationship between benefits to ensure a minimum standard of living with, for instance, the basic pension, remains unclear, see p. 559.

82 The most obvious examples are Italy (see p. 223) and Spain (see p. 350).

83 This is clearly the case in Mexico, where the various targeted social insurance and assistance programmes are not interconnected and fail to ensure coverage for the entire population, and in Italy, where the abolition of the *Reddito di Cittadinanza* has left gaps in protection despite the existence of several other social assistance benefits.

84 Bulgaria, p. 70. A similar problem is evident in Japan, where “there is a large gap between the two systems, which means there is a certain number of unemployed persons who do not receive any social benefits at all”, p. 517.

85 See above, Sec. II.1. of these Conclusions.

frequently fall short of enabling recipients to attain the standard of living that the State's own normative framework appears to support.

Disentangling this gap calls for a closer examination of the specific methods and criteria used to determine benefit levels. Three distinct approaches to calculating cash benefits have been identified and found to be connected to the concept of minimum subsistence adopted by the legislature.

Firstly, in countries where the legislative definition of minimum subsistence is limited to basic subsistence needs, benefits are typically calculated using poverty or income thresholds. For instance, the Bulgarian legislature defines basic necessities to be food, clothing and accommodation, and calculates minimum income benefits based on a social assistance baseline as a percentage of the at-risk-of-poverty threshold. This amount is then adjusted according to the individual's health condition and family situation.<sup>86</sup> Similarly, in Chile, the base transfer for meeting basic food needs is calculated as a percentage of the extreme poverty threshold.<sup>87</sup> In Slovenia, where the legislative intent is to provide means to cover immediate basic needs,<sup>88</sup> the baseline amount corresponds to the at-risk-of-poverty threshold.<sup>89</sup> In the Republic of Korea, the levels guaranteed by the National Basic Livelihood Security Act are primarily focused on ensuring physical subsistence – although social and cultural participation should also be covered according to constitutional law – and are calculated as percentages of the median income.<sup>90</sup>

Secondly, countries that incorporate elements of social participation into their concept of minimum subsistence often use the basket of goods or reference budget method. In Germany, the standard needs for the Citizen's Income, which encompass participation in social and cultural life, are determined using the basket of goods method based on income and consumption surveys.<sup>91</sup> In Norway, although the final decision rests with municipalities, ministerial guidelines provide detailed suggested rates which are based on the costs of food, beverages, household products, media and communication, leisure activities, etc.<sup>92</sup> In Japan, minimum standards are set using the basket of goods method and are adjusted according to

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86 Bulgaria, p. 56.

87 Chile, p. 449.

88 Slovenia, p. 324.

89 Ibid.

90 The Republic of Korea, p. 554.

91 Germany, p. 137.

92 Norway, pp. 265 ff.

consumption levels of comparable households, although the actual benefit amount provided to recipients is highly individualised based on relevant circumstances.<sup>93</sup> Additionally, support for funerals is also provided as part of ensuring a minimum and dignified standard of living.<sup>94</sup>

Thirdly, in a surprisingly large number of jurisdictions, the calculation of benefit amounts is “arbitrary” or lacks a concrete basis that is not influenced by political discretion or budgetary constraints. This is particularly pronounced in Greece, where there is a significant gap between the intended purpose of minimum income protection and its practical implementation. Although the guaranteed minimum income amounts vary according to the number and age of household members, these amounts lack “clear legislative justification” and are determined by “fiscal constraints rather than a calculation based on poverty thresholds or actual living costs”.<sup>95</sup> As a result, although the guaranteed minimum income scheme in Greece was designed to fight poverty in a broad sense, encompassing both economic deprivation and lack of access to cultural goods, education and new technologies, its adequacy in achieving these goals remains questionable.<sup>96</sup> A similar pattern is observed in Italy, where the benefit level appears to be derived from the distribution of a predetermined amount of tax revenue among potential beneficiaries.<sup>97</sup> In Ireland, the rate of the supplementary welfare allowance is set annually through the national budget based on the government’s perception of need.<sup>98</sup> The United Kingdom also establishes the standard monthly allowance explicitly rejecting the idea of setting benefits it based on an objective assessment of needs.<sup>99</sup> In France, the amount of the RSA lacks a precise calculation and is left to political discretion, originally fulfilling an electoral promise. However, the minimum wage is intended to serve as a benchmark to encourage recipients to seek employment.<sup>100</sup> In Brazil, the basic benefit under *Bolsa Família* is a fixed amount for each household, with additional top-ups for families with children.<sup>101</sup> Another indication of arbitrary determination is evident in

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93 Japan, pp. 528–529.

94 Japan, p. 521.

95 Greece, p. 167.

96 Greece, p. 173.

97 Italy, p. 227.

98 Ireland, pp. 182 and 188.

99 The United Kingdom, pp. 397–398.

100 France, p. 98.

101 Brazil, p. 425.

the benefit caps observed, particularly in Italy and the United Kingdom. In Italy, the coefficient used to calculate benefits is capped, preventing larger families from receiving amounts proportional to their size and needs.<sup>102</sup> In the United Kingdom, households are subject to a legislative cap that limits the maximum annual amount of benefits that can be received.<sup>103</sup> These mechanisms effectively decouple the benefits provided from recipients' actual needs.<sup>104</sup>

In terms of adequacy of benefits over time, the amount provided cannot be considered sufficient if it is not subject to regular indexation. Automatic annual adjustments are ideal, as they allow benefit levels to keep pace with inflation without being subject to political discretion. Without regular and automatic indexation, benefit levels become disconnected from actual living costs, leaving recipients' dignity contingent on political priorities and budgetary constraints. The lack of regular and frequent indexation is particularly problematic in Ireland,<sup>105</sup> Italy<sup>106</sup> and Poland.<sup>107</sup> While benefits are usually increased in most countries to reflect inflation, this occurs arbitrarily in some countries without an automatic mechanism in place. Although no automatic mechanism exists in Brazil, the Supreme Court has ordered the government to regularly update benefit levels to effectively uphold the right to a minimum income.<sup>108</sup> In Norway, the United Kingdom, Slovenia, Spain, France and Chile, adjustments are made annually based on changes in consumer prices or inflation.<sup>109</sup> In Bulgaria, the at-risk-of-poverty threshold used to calculate social assistance benefits is established every year by governmental decree.<sup>110</sup> In Germany, standard needs are adjusted annually, based on the development in both prices and wages.<sup>111</sup> In Mexico,

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102 Italy, p. 228.

103 The United Kingdom, p. 402.

104 J. King, 'The Future of Social Rights. Social Rights as Capstone', in: K. Young (ed.), *The Future of Economic and Social Rights. Globalization and Human Rights* (Cambridge University Press 2019), p. 306.

105 Ireland, p. 188.

106 Italy, p. 237.

107 Where indexation takes place regularly, but only every three years, see Poland, p. 285.

108 Brazil, p. 420.

109 Norway, p. 265, Chile, p. 450, the United Kingdom, pp. 398 ff., France, p. 97, Spain, p. 367, Slovenia, p. 324.

110 Bulgaria, p. 56.

111 Germany, p. 139.

while benefits are increased yearly, these adjustments are made at the complete discretion of the executive and are based on arbitrary criteria.<sup>112</sup>

Another important factor for assessing adequacy is the duration of benefit payments. While benefits are provided in most countries for as long as the need persists, some impose time limits or waiting periods, which can undermine the right to a life in dignity by implying that individuals are no longer deserving of support after having received a given amount of benefits for a given period of time. In Chile, for example, most benefits are granted for a maximum of 24 months, after which the amount gradually decreases each month by a certain percentage.<sup>113</sup> In Italy, the duration of benefits is limited to 18 months, with the possibility of renewal for an additional 12 months following a one-month break.<sup>114</sup> There is a three-month waiting period in Bulgaria for working-age applicants after registering with the employment office before they can apply for assistance.<sup>115</sup> In other countries, while the duration of benefits is fixed, participation in the scheme can be renewed for as long as a situation of need persists.<sup>116</sup>

Irrespective of the calculation method or the existence of an adjustment mechanism, concerns about the adequacy of benefits to cover basic needs or to lift beneficiaries out of poverty, let alone enabling a full and meaningful participation in social life, are prevalent in most countries analysed.<sup>117</sup> Even in European countries renowned for strong protection of social rights, our findings show that the existing safety nets often fail to ensure a life in dignity.<sup>118</sup> The comparative analysis gives rise to two main reflections in this regard.

First, regardless of the method used to determine benefit levels, amounts that remain merely symbolic undermine the very purpose of minimum

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112 Mexico, p. 490.

113 Chile, p. 462.

114 Italy, p. 212.

115 Bulgaria, p. 58.

116 In Greece, for instance, beneficiaries must reapply after six months, see p. 169.

117 See, for instance, the chapters on Bulgaria (p. 60), Chile (p. 451), Greece (p. 173), Mexico (p. 490), Ireland (p. 186) Slovenia (p. 324), Spain (p. 367), the Republic of Korea (p. 554) and Italy (p. 227).

118 In this regard, the results of our comparative analysis directly challenge the “complacency exist[ing] as to the adequacy of the European social model”, as cautioned by C. O’ Cinneide, ‘The Present Limits and Future Potential of European Social Constitutionalism’, in: K. Young (ed.), *The Future of Economic and Social Rights. Globalization and Human Rights* (Cambridge University Press 2019), pp. 324-352, 349.

income schemes as instruments to guarantee a life in dignity. If the final amount received by the beneficiaries is insufficient to cover their minimum subsistence needs, it fails to uphold their dignity. This failure is even more troubling when symbolic amounts are instrumentalised to advance political narratives of generosity, treating beneficiaries as mere policy tools.

Second, to give material effect to their normative conceptions of a dignified life as reflected in constitutional or legal frameworks, states must assume responsibility for defining, in concrete terms, what this entails. Otherwise, the process of setting benefit levels risks rendering the normative content of minimum income protection practically meaningless. While the definition of this standard can be country-specific, it should not remain implicit or be determined arbitrarily. In this respect, reference budget methods hold significant potential. By systematically identifying the goods and services necessary for a dignified life, they promote transparency and foster an open public debate about the essential elements of a life in dignity. Moreover, they support the justiciability of minimum income schemes by providing a standard against which the adequacy of benefits can be assessed in light of states' obligations.<sup>119</sup>

## b) Eligibility

### aa) Means Testing

Means testing, by definition, is an essential feature of minimum income schemes, and is crucial for directing available resources towards individuals in situations of need. However, due to the extensive personal information required by authorities to conduct means testing, the very burden of proving deservingness threatens applicants' dignity, subjecting them to intrusive scrutiny of their private lives and personal circumstances. Against this background, designing a means testing system that ensures effective targeting while fully respecting beneficiaries' dignity remains a fundamental challenge.

First, means tests for eligibility within the scope of universal minimum income schemes is conducted at the household level in all countries. Just to mention a few examples: in Brazil, the poverty threshold that is used

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119 Ibid, pp. 348-349.

to determine eligibility is calculated by dividing total household income by the number of household members.<sup>120</sup> In Greece, poverty is assessed on the basis of household income over the six months preceding the application for support.<sup>121</sup> Italy applies a dual means testing approach, relying on the family Equivalent Economic Situation Indicator (ISEE) as well as ADI-specific income limits, both of which are based on total household income.<sup>122</sup> While this makes sense for identifying situations of need within constellations where resources are typically shared, conducting means testing at the household level also means setting individual autonomy and personal agency aside. This approach risks denying protection to individual applicants who lack personal income and have no control over the household's resources. In Italy, for instance, childless adults who live on their own and have no income are automatically included in their parents' household for calculating both the ISEE and the ADI-specific income threshold.<sup>123</sup> Some countries address this issue by allowing discretion in treating individuals separately from their household for means testing purposes, as is the case, for instance, in Japan.<sup>124</sup> Moreover, determining eligibility based on the entire household results in sanctions for individual behaviour affecting the entire household. In several schemes, the combination of eligibility rules and sanctions for non-compliance creates situations where the entire family is held accountable for the misconduct of a single member.<sup>125</sup>

The issue of family responsibility is especially pronounced in countries where access to minimum income support is conditional on exhausting all possibilities of support from family members. In some cases, there are very far-reaching maintenance obligations, including members of the extended family. This is the case in Italy, as seen in the example of childless adults with no income of their own, and in Bulgaria, where the obligation to seek family support first is particularly strict. There, eligibility for social benefits is excluded if the applicant has any relatives legally obliged to support them.<sup>126</sup> In Slovenia, individuals are generally also required to first seek family support, including from former spouses.<sup>127</sup> Similarly, in Greece,

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120 Brazil, pp. 424-425.

121 Greece, pp. 164 ff.

122 Italy, p. 211.

123 Italy, p. 230.

124 Japan, pp. 530-531.

125 Bulgaria, p. 65, Greece, p. 172 and Italy, p. 232.

126 Bulgaria, p. 55.

127 Slovenia, p. 327.

access to guaranteed minimum income is denied if the recipient can obtain assistance from family members.<sup>128</sup> While support from family members must be prioritised in Japan as well, discretion is granted to caseworkers in contacting the applicant's family members and assessing their resources.<sup>129</sup> In the Republic of Korea, livelihood assistance is subsidiary to family support only when relatives' income exceeds certain thresholds, whereas other benefits, such as housing and education allowances, do not require applicants to first seek family support.<sup>130</sup>

Secondly, if means testing is overly strict, it may create significant coverage gaps by targeting only those who face severe physical subsistence risks, while neglecting individuals who are at risk of poverty or social exclusion. In this sense, means testing is considered particularly strict, *inter alia*, in Bulgaria<sup>131</sup> and the Republic of Korea.<sup>132</sup> Chile addresses this challenge by implementing a system of "vulnerability brackets": an instrument allowing to expand access to certain social programmes beyond individuals who are at risk of poverty and to also include households characterised by other socio-economic vulnerabilities.<sup>133</sup> Mexico stands out in this regard, as eligibility for certain programmes is determined by residence in designated areas where vulnerability and marginalisation are higher than in other parts of the country.<sup>134</sup>

Third, means testing typically includes an assessment of assets and capital based on different approaches. If the criteria for capital and assets are too stringent, applicants may end up having to dispose of personal assets, including those that will be essential for meeting their basic living needs after ceasing to receive minimum income support. In Chile, households that possess two or more "high value" assets, including vehicles, private health insurance and properties, may be deemed ineligible for social benefits.<sup>135</sup> In Greece, eligibility is limited by thresholds on the total taxable value of the household's assets and vehicles.<sup>136</sup> The "bedroom tax" sparked controversy in the United Kingdom by reducing benefits for households

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128 Greece, p. 164.

129 Japan, p. 533.

130 The Republic of Korea, p. 553.

131 Bulgaria, pp. 55 ff.

132 The Republic of Korea, pp. 553-554.

133 Chile, p. 456.

134 Mexico, pp. 482-483.

135 Chile, p. 457.

136 Greece, p. 166.



with more living space than deemed necessary.<sup>137</sup> In Italy, no household member may have full availability of certain high-value movable goods.<sup>138</sup> In Japan, the possession of a vehicle is generally prohibited, except in special cases of recognised need.<sup>139</sup> Many tools can be used to mitigate the effect of requiring applicants to dispose of essential assets, while still ensuring that assistance is targeted to cover those who are genuinely in situations of need. Certain types of income and assets can be partly or fully excluded from the means test, such as the primary residence in some countries.<sup>140</sup> In Slovenia, both transport vehicles and the place of residence are excluded up to a certain threshold.<sup>141</sup> In Germany, household effects, vehicles and the place of residence are exempt from the means test if they are deemed adequate.<sup>142</sup> Other mechanisms to avoid an overly stringent means test for assets include granting more discretion to caseworkers or applying different timelines for evaluating different asset types. In Norway, for instance, the means test for assets is very strict, but caseworkers have some discretion, and the requirement to liquidate assets depends on the expected duration of receipt of benefits.<sup>143</sup> In Germany, a one-year period from the initial receipt of benefits applies, during which only significant assets are taken into account.<sup>144</sup>

## bb) Residence and Age

Among the additional eligibility requirements, a link to the state providing the scheme in the form of residency is commonly required for access to minimum income protection. Even where this is not explicitly required by law, applicants are generally presumed to be legal residents of the country, or it is a factual requirement to file the application. In some countries, simple proof of current residence in the country is necessary to apply for

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137 The United Kingdom, p. 405.

138 Italy, p. 211.

139 Japan, p. 530.

140 Ireland, p. 190.

141 Slovenia, p. 326.

142 Germany, p. 131.

143 Norway, p. 264.

144 Germany, p. 131.

benefits, such as in Brazil<sup>145</sup> and Chile<sup>146</sup>. Legal residence status is required in other countries such as Norway, Mexico and the United Kingdom. In most countries, however, eligibility requires a qualified period or legal title of residency, or the prospect of long-term residence in the country. In Ireland, applicants must demonstrate habitual residence with a proven link to the country, implying that the applicant must have resided in the country for a longer period of time and must prove an intention to stay.<sup>147</sup> In Slovenia, in addition to permanent legal residence, there must be a demonstrated link between the applicant and the community of tax payers.<sup>148</sup> Similarly, in Poland, foreigners can only receive assistance if they possess a qualified residence permit.<sup>149</sup> In Spain, beneficiaries must have legally resided in the country for at least one uninterrupted year prior to applying.<sup>150</sup> In Greece, households that are legally and permanently established in the country are eligible for minimum income protection, but no previous period of residence is required and the homeless are explicitly recognised as a category of beneficiaries.<sup>151</sup> In Bulgaria, eligibility is limited to those who hold a long-term or permanent residence permit.<sup>152</sup>

In some cases, concerns about potential abuse or the intention to restrict access for non-nationals have led to stricter residence requirements. In France, the continuous and effective residency condition requires foreign applicants to have held a residence permit with work authorisation for at least five years.<sup>153</sup> Moreover, periods of absence from the country exceeding three months may result in a proportional reduction of the minimum income benefit, based on actual time spent in the country.<sup>154</sup> In Italy, applicants must have resided in the country for at least five years, with the last two years without interruption.<sup>155</sup> In Japan, although assistance was traditionally only conceived for nationals, it is now interpreted to include foreign nationals with permanent residence status.<sup>156</sup>

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145 Brazil, p. 426.

146 Chile, p. 460.

147 Ireland, pp. 191 ff.

148 Slovenia, p. 328.

149 Poland, p. 296.

150 Spain, p. 362.

151 Greece, p. 163.

152 Bulgaria, p. 55.

153 France, p. 86.

154 France, p. 87.

155 Italy, p. 210.

156 Japan, p. 516.

Eligibility for minimum income benefits is usually also linked to age, often requiring recipients to be of adult and working age. While most countries require the beneficiary to be over 18, some jurisdictions exclude young adults from eligibility to minimum income benefits, based on the assumption that they remain under their families' responsibility. The minimum age for eligibility is 23 in Spain<sup>157</sup> and 25 in France,<sup>158</sup> though both countries allow for certain exceptions. In Italy, young adults living alone are generally excluded from receiving minimum income support independently, as they are considered to be part of their parents' household for means testing purposes.<sup>159</sup> In some jurisdictions, such as the United Kingdom, Germany and France,<sup>160</sup> pursuing university studies or other forms of education leads young adults to be excluded from general minimum income schemes. In Chile, this is achieved through a means testing mechanism comparable to that in Italy, whereby the income of students up to the age of 24 is assessed on the basis of their parents' income, even if they do not live in the same household.<sup>161</sup> In only a few cases is the exclusion of students from minimum income protection offset by their inclusion in other schemes specifically designed for them.<sup>162</sup> All of the countries analysed provide targeted schemes for recipients who are no longer of working age (the elderly).<sup>163</sup> In some cases, measures targeting the elderly have proven to offer more generous benefits and more lenient means testing criteria.<sup>164</sup>

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157 Spain, p. 363.

158 France, p. 87.

159 As mentioned above, sec. III.2.b)aa) of these Conclusions.

160 See the United Kingdom, where those in full-time education are usually not eligible for Universal Credit, see p. 392; Germany, where students are excluded from receiving the Citizen's Income, see p. 137 and France, where students and trainees are excluded from the RSA despite recent expansions of eligibility for active young adults, see p. 87.

161 See Chile, p. 457.

162 In Germany, for instance, educational support benefits are provided to university students under the *BAföG*, see p. 124. Mexico, despite not having a universal minimum income scheme, provides a programme targeted at students below the age of 29, p. 484.

163 For a legal comparison of minimum income protection measures specifically for the elderly, see S. Devetzi (ed.), *Minimum Income in Old Age: A legal comparison of selected European countries* (Sakkoulas Publications 2023).

164 See *supra*, n 78.

### c) Activation Measures

The tension between the principles of dignity and deservingness is most evident in the design of activation conditionalities attached to minimum income schemes, in particular those involving labour market participation, behavioural requirements and sanctions for non-compliance. The aim of lifting individuals out of poverty is a double-edged sword. On the one hand, the principles of dignity and autonomy support State efforts to empower individuals to secure their own means of sustenance, achieve independence from public assistance, and participate fully in the labour market and social life. On the other hand, the right to a minimum income grounded in human dignity<sup>165</sup> limits the State's ability to withhold basic means of subsistence from individuals who fail to meet certain behavioural requirements.<sup>166</sup>

Against this backdrop, this comparative analysis identifies three main patterns of beneficiary activation, each reflecting a distinct role assumed by the State in relation to recipients. Conditionalities in minimum income schemes can function as instruments of paternalism, coercion and sanction, or support. While the role of conditionalities varies depending on a country's stage of economic development,<sup>167</sup> no State exclusively follows any one of these models. In all countries analysed, minimum income measures combine elements of all three approaches, incorporating various mechanisms of conditionality and sanctions into their design. The aim is thus not to rigidly categorise countries' measures, but rather to highlight the convergences and divergences in how each model embodies the underlying tension between the logic of deservingness and the principle of human dignity.<sup>168</sup>

165 See above, sec. I of these Conclusions.

166 Several other compelling arguments have been made for renouncing conditionality, see, *inter alia*, S. White, 'Should a Minimum Income be Unconditional?', in: S. Civitarese Matteucci and S. Halliday (eds.), *Social Rights in an Age of Austerity: European Perspectives* (Routledge 2017), pp. 181–196; M. Adler, *Cruel, Inhuman and Degrading Treatment? Benefit Sanctions in the UK* (Palgrave Macmillan 2018); S. Marchal and I. Marx (n 2), pp. 245 ff.

167 See H. Immervoll, F. Antía, et al., 'Welfare Conditionality in the OECD and in Latin America: A Comparative Perspective' IZA DP No. 17869 (April 2025), p. 3.

168 The combined analysis of sanctions and conditionalities has already inspired more nuanced models of minimum income schemes systematisations in the social sciences. *Inter alia*, Natili's model offers a particularly compelling framework, distinguishing between passive, workfare, paternalistic, enabling, inadequate, sanctiona-

Paternalistic conditionalities are contained in provisions that tie the receipt of cash benefits to recipients' compliance with prescribed "virtuous" behaviours, or that restrict the use of cash benefits only to purchase certain approved categories of goods. This model of conditionalities is widespread in South American states, reflecting the distinct role that minimum income protection plays in these jurisdictions, where conditionalities are considered an integral component of the support provided by the State to beneficiaries.<sup>169</sup> In Brazil, cash transfers are conditional on school attendance, health and dental check-ups and vaccinations.<sup>170</sup> Similarly, in Chile, conditional cash transfers are provided to individuals who meet specified health and education obligations.<sup>171</sup> Evidently aimed at nudging individuals towards adopting certain virtuous behaviours are the "effort transfers", offered to beneficiaries who "show outstanding performance or improvement in the areas of education, health, employment, savings, and monthly adherence to intensive or residential drug rehabilitation programmes".<sup>172</sup> In both Brazil and Chile, health and education conditionalities are seen as essential to help lift individuals out of poverty.<sup>173</sup> However, imposing behavioural requirements also serve a paternalistic function aiming to "improve" the beneficiary while ensuring that the resources provided are used for virtuous purposes and to not be misused.<sup>174</sup> Similar paternalistic conditionalities linked to health and education are found in some Eastern and Southern European schemes as well. In Bulgaria, social assistance schemes for families include health and education conditionalities, designed to encourage parents towards a "responsible upbringing and education of the child".<sup>175</sup> In Greece, the household is also held accountable for ensuring that minors attend compulsory education.<sup>176</sup> Similarly, in Italy, benefits have recently been made conditional on children's regular school attendance.<sup>177</sup> State control over how cash benefits are used reflects an element of paternalism

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tory and protective models, see M. Natili, 'Worlds of last-resort safety nets? A proposed typology of minimum income schemes in Europe' *Journal of International and Comparative Social Policy* 36 (2020)1, pp. 57–75.

169 H. Immervoll, F. Antía (n 167), p. 5.

170 Brazil, pp. 425 and 428.

171 Chile, p. 452.

172 Chile, p. 453.

173 Brazil, p. 425 and 428.

174 Brazil, p. 425 and Chile, p. 465.

175 Bulgaria, p. 63.

176 Greece, p. 171.

177 Italy, p. 210.

in Southern European countries. In Greece, half of the monthly benefit must be used for purchasing consumer goods and cannot be saved.<sup>178</sup> In Italy, the use of cash benefits is restricted to in-person purchases of food, pharmaceutical and para-pharmaceutical products, as well as rent and utility payments, with monthly caps on cash withdrawals.<sup>179</sup>

The coercive and sanction-based model includes measures primarily aimed at preventing individuals from relying on State support for extended periods and at swiftly pushing them out of the safety net. This is typically enforced through strict labour obligations, underpinned by the threat of significant sanctions. In some countries, coercion also takes the form of compulsory participation in community or voluntary work, implying that individuals must give back to society to deserve assistance. This is the case, for instance, in Bulgaria and Norway.<sup>180</sup> These countries also impose additional labour activation requirements backed by sanctions. In particular, in Bulgaria, access to social assistance is conditional on strict job search or training requirements and non-compliance with these obligations is sanctioned with suspension or termination of benefits.<sup>181</sup> Labour activation requirements of varying scope and intensity are a common feature across all European countries analysed. In Slovenia, beneficiaries may lose or even be required to repay benefits if they refuse suitable employment.<sup>182</sup> In Greece, beneficiaries who have capacity for work must accept suitable job offers from the employment office or participate in any offered activities such as counselling or vocational training. Failure to comply with these requirements results in the loss of benefit entitlement.<sup>183</sup> The United Kingdom also imposes stringent labour activation requirements on beneficiaries in the higher conditionality group, with non-compliance harshly sanctioned, potentially resulting in full suspension of benefits.<sup>184</sup> In Ireland, beneficiaries must demonstrate willingness to accept any reasonable job offer and actively pursue employment opportunities, with possible sanctions including reductions in benefit payments.<sup>185</sup> Similarly, in France, recipients are required to actively seek employment, with potential sanctions ranging from benefit

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178 Greece, p. 168.

179 Italy, p. 212.

180 Bulgaria, p. 65 and Norway, p. 267.

181 Bulgaria, p. 65.

182 Slovenia, p. 326.

183 Greece, p. 171.

184 The United Kingdom, pp. 406 ff.

185 Ireland, pp. 193 ff.

reductions to suspension of benefits,<sup>186</sup> and a recent reform has further expanded beneficiaries' obligations and the applicable sanctions.<sup>187</sup> In Italy, work-related conditionalities have also been recently tightened through a stricter sanction regime, which allows for the suspension or termination of benefits in a number of cases, for instance, if recipients refuse low-paid job offers anywhere in the country.<sup>188</sup> Sanctions also play an important role in Germany, although their scope has been curtailed following the sanctions ruling of the Federal Constitutional Court, which held that cuts to benefits must not exceed 30 per cent in line with the fundamental right to a dignified minimum subsistence.<sup>189</sup> In contrast, South American countries generally do not apply strict, sanction-based labour activation requirements. However, failure to comply with the above-mentioned health and education conditions may lead to the suspension or withdrawal of conditional benefits. Moreover, in Chile, the terms of participation in the system are formalised through a commitment letter, and violations may result in exclusion and loss of benefits.<sup>190</sup> In Japan, recipients' failure to comply with job activation measures may lead to a reduction or temporary suspension of benefits; however, welfare offices retain significant discretion in determining both the timing and content of such instructions and any associated sanctions.<sup>191</sup>

Finally, a model of supportive conditionality is designed to empower individuals to regain full participation in the community's labour and integrate into social life by providing the targeted support they need, while also ensuring their livelihood throughout the reintegration process. The focus is not only on short-term activation measures but on achieving long-term and sustainable social inclusion. To this end, the model offers personalised assistance and access to services such as training and coaching, aiming to address the structural obstacles that caused the situation of poverty or social exclusion in the first place. To facilitate smooth reintegration into the labour market, positive incentives are preferred over sanctions, such

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186 France, p. 91.

187 France, p. 102.

188 Italy, pp. 232-233.

189 Although "this regulation was corrected again by the new provision reducing the benefits to zero (Section 31a, para. 7 SGB II) for so-called 'total objectors' who deliberately refuse to accept an actual and direct offer of employment", see Germany, p. 145.

190 Chile, p. 464.

191 Japan, pp. 531-532.

as means testing mechanisms that exclude income earned from work and additional monetary incentives that support transition into employment.<sup>192</sup> Several instruments inspired by this approach exist in the jurisdictions analysed. Chile's social protection system offers coaching, labour and social support programmes, while also rewarding beneficiaries for active participation and employment uptake.<sup>193</sup> In many countries, a shift away from strict workfare models to more supportive approaches has occurred in recent years, driven by evidence that coercion alone is ineffective. Germany has recently moved away from a policy prioritising job placement in favour of offering a range of integration and education programmes, along with holistic support for individuals.<sup>194</sup> Moreover, employed beneficiaries receive supplementary allowances designed to positively incentivise work take-up.<sup>195</sup> Similarly, the Republic of Korea has recently shifted towards a more supportive model by providing individualised activation plans and offering counselling, vocational training, start-up assistance and other services.<sup>196</sup> In Greece, the means test for the recently introduced minimum income scheme excludes a percentage of the applicant's income from any work-related activities, also to address the problem of the working poor.<sup>197</sup> Employment counsellors are expected to provide support in a personalised and individualised manner.<sup>198</sup> In Bulgaria, a recent provision allows individuals who enter employment to continue receiving social assistance for a transitional period of three months.<sup>199</sup> Similarly, in France, income earned during the first three months after re-entering employment is excluded from the means test,<sup>200</sup> and a progressive formula is applied to gradually phase out benefits as the individual's earnings increase.<sup>201</sup> Spain has also introduced a new calculation mechanism that ensures beneficiaries' disposable income increases when they take up work.<sup>202</sup> Significant earning disre-

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192 A supportive model of conditionality can also involve elements of paternalism, as it may be justified by the notion that such conditions serve the best interests of the recipient, see S. White (n 166), p. 183.

193 Chile, p. 462.

194 Germany, pp. 140 ff.

195 Germany, p. 130.

196 The Republic of Korea, p. 557.

197 Greece, p. 166.

198 Greece, p. 171.

199 Bulgaria, p. 59.

200 France, p. 88.

201 France, p. 90.

202 Spain, pp. 368-369.



gards are offered in the United Kingdom,<sup>203</sup> while beneficiaries in Slovenia, who work a certain number of hours, are entitled to higher monthly benefits as an incentive to remain in the labour market.<sup>204</sup>

#### IV. Concluding Remarks

The results of this comparative study confirm that in all countries analysed, the design of minimum income protection poses several potential threats to the dignity of individuals in need of social assistance. Implementing a minimum income scheme that guarantees a life in dignity in all individual life situations is a complex task, especially given the unstable political landscape and financial constraints modern welfare states face today. Beyond the key issues explicitly discussed in this conclusion, the country reports highlight additional dimensions that warrant further investigation. Notably, they underscore the realisation that respect for individuals' right to dignity depends not only on the substantive design of the scheme but also on the procedural aspects governing access to it. In situations of extreme need and high vulnerability, beneficiaries often face complex and discouraging procedural challenges. Bureaucratic inefficiencies delay access to benefits,<sup>205</sup> while complex and burdensome applications procedures<sup>206</sup> or full digitalisation without adequate safeguards<sup>207</sup> create significant obstacles for vulnerable population groups. Effective coordination among the State, regional and local entities remains essential but difficult to achieve in a seamless way.<sup>208</sup> In countries where local authorities play a key role, the broad discretion granted to caseworkers allows for more personalised assessments, but also introduces an element of uncertainty that may undermine the principle of minimum subsistence as an enforceable right.<sup>209</sup> Moreover, the imperative to prevent fraud and verify self-reported information may lead to invasive procedures that scrutinise beneficiaries' living conditions,

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203 The United Kingdom, p. 393.

204 Slovenia, p. 325.

205 Brazil, p. 430.

206 Slovenia, pp. 322-323.

207 The United Kingdom, p. 390.

208 Spain, pp. 352 ff., Italy, pp. 223 and 233 and Brazil, p. 429.

209 Norway, pp. 267-268, Japan, pp. 528-529, Bulgaria, p. 48 and the United Kingdom, p. 395.

posing risks to personal autonomy and dignity.<sup>210</sup> Non-take-up of benefits, driven by stigma, fear of scrutiny or repercussions, or procedural barriers, remains a major concern. Several country reports also highlight the gendered dimensions of minimum income schemes,<sup>211</sup> noting their potential to reinforce stereotypes or to increase the mental load carried by mothers.<sup>212</sup>

Despite these limitations, minimum income schemes, in the form of universal and means-tested safety nets, remain a crucial instrument for upholding the fundamental right to a dignified minimum subsistence for all. Their institutional design, however, must consistently prioritise respect for individuals' dignity over the mere tightening of the safety net at every stage of the process.

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210 See Greece, p. 172, Brazil, p. 426 and Bulgaria, p. 48.

211 See Spain, p. 372.

212 See Chile, p. 465 and Brazil, pp. 425-426.