

## Part I: Introduction



# Life in Dignity Through Minimum Income Protection: Introduction

*Ulrich Becker*

|  |    |
|--|----|
| I. Starting Point: A Thorny Question   | 13 |
| II. Background: Developments, Standards and Institutions                         | 16 |
| 1. From Charity and the Legal Order to Subjective Rights and Activation Measures | 16 |
| 2. Human Rights  | 19 |
| a) International Level   | 19 |
| b) National Level  | 23 |
| 3. Recommendations   | 25 |
| 4. Institutions  | 29 |
| III. Substance and Outline   | 31 |
| 1. Aims and Definitions  | 31 |
| a) Research Questions  | 31 |
| b) Limitations   | 32 |
| 2. Selection of Countries  | 34 |
| 3. Structure of the Chapters   | 35 |

## I. Starting Point: A Thorny Question

1. States have the obligation to protect all persons residing within their territory. This obligation certainly holds true for protection against physical harm. But what about protection in a socio-economic sense, specifically the guarantee of a minimum level of subsistence?

On the one hand, there are compelling arguments supporting the notion that the State has a normative obligation to ensure the socio-economic conditions necessary for a life in dignity. The evolution of the welfare state and the creation of legal instruments to protect social rights reflect this normative imperative. On the other hand, poverty alleviation remains an unfulfilled goal. From the perspective of those fortunate enough to be born and living in a country with comprehensive social security systems where those in poverty receive benefits and support for societal participation, this goal may seem nearly achieved. However, even in countries with well-established social security systems, the extent of minimum social protection remains a subject of ongoing societal and political debate. The situation is markedly different in countries where social protection schemes are rudimentary or partly absent. The notion of the State's obligation to provide an effective safety net may either be under discussion in these countries, lack

acceptance, or may be facing other barriers that prevent the realisation of such a safety net.

This situation is not an exception. At the global level, the United Nations (UN) has made strides to end extreme poverty, initially through the *Millennium* and now the *Sustainable Development Goals* (SDGs). However, after decades of poverty decline, the 2020 pandemic marked a turning point to the worse.<sup>1</sup> In the European Union (EU), the 2008 financial crisis revealed that not all Member States had a universal social safety net in the form of an effective social assistance system in place.<sup>2</sup> Although this is changing, one fifth of the Union's population continues to be at risk of poverty or social exclusion.<sup>3</sup>

2. This raises a simple and fundamental question: How do states guarantee a minimum income? In particular, what benefit schemes are in place to achieve this goal? To this end, we must take stock of the institutions that provide financial support to individuals unable to independently cover their basic living costs. Such support has traditionally been delivered through social assistance schemes, often described as the final 'safety net'. However, this safety net may also be provided through other types of social benefits beyond assistance in the technical sense. We take this into account by using the term "minimum income protection". The focus is on financial support to cover basic living costs, while intentionally leaving open the question of how such financial means are delivered (see II.4.).

The question we are interested in is how states legally define a collective responsibility to support individuals in need. A general obligation to provide minimum income protection needs to be implemented. One of the most important steps in this process is the establishment of subjective legal rights. This means translating the State's abstract obligation into concrete and binding legal conditions and instruments. It comprises two

---

1 See: United Nations, 'Goal 1: End poverty in all its forms everywhere' (2025) <<https://www.un.org/sustainabledevelopment/poverty/>> accessed 9.6.2025.

2 See U. Becker, 'Conclusions from a Comparative Perspective', in: U. Becker and A. Poulou (ed.), *European Welfare State Constitutions after the Financial Crisis* (Oxford University Press 2020), pp. 338, 341, 354.

3 See: Eurostat, 'Living conditions in Europe - poverty and social exclusion' (April 2025) <[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Living\\_conditions\\_in\\_Europe\\_-\\_poverty\\_and\\_social\\_exclusion#Source\\_data\\_for\\_tables\\_and\\_graphs](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Living_conditions_in_Europe_-_poverty_and_social_exclusion#Source_data_for_tables_and_graphs)> accessed 9.6.2025. See for the technical pros and cons of EU-SILC data H. M. Adzakpa, *Realising the Human Right to a Social Minimum? A Comparative Socio-Legal Study of EU Member States* (Nomos 2024), pp. 116 ff.

elements: first, specifying entitlement in terms of types and amounts; and second, establishing the administrative structures necessary to deliver these subjective rights. At the same time, the administrative concretisation and operationalisation of the State's constitutional obligation sheds light on the conceptualisation of welfare. Provisions on social benefits, how they are calculated and adjusted, reflect the State's normative understanding of how responsibilities are shared between a political community and its individuals. They reflect fundamental notions about the fair and just organisation of a political community, particularly with regard to the legitimacy of public interventions. Such provisions must be checked against and interpreted in line with constitutional obligations and human rights standards. Nevertheless, they possess their own normative meaning and impact, and provide insights into what can be described as the legal practice of social solidarity.

3. Comparison as a method offers a suitable approach to describing and analysing the legal framework surrounding the State's obligation to guarantee a minimum level of subsistence. It must be based on legal facts, such as current laws and regulations, as well as their functions and practical operation. In this context, the collection of legal materials can be guided by the shared social policy goal of ensuring a minimum income, as previously mentioned.

This "function" can be achieved through various types of social protection and benefit schemes. In most countries, these systems have evolved over time in response to specific historical events rather than as the outcome of a comprehensive social policy strategy or a masterplan of the welfare state. This is why minimum income protection is often delivered through a variety of benefits drawn from different schemes, requiring an analysis of their interactions. Secondly, to understand how responsibilities are shared between the political community and the individual, it is necessary to consider not only the definition of minimum income and how it is calculated, but also how it is maintained over time through regular adjustments. Equally important are the conditions attached to these benefits. These conditions reflect societal views on what constitutes basic needs. At the same time, they provide insights into the obligations expected of those applying for benefits. This concerns, in particular, activation measures, which have become widespread since the end of the last century.

Before outlining our research approach and the structure of this book (see Section III), we first contextualise our research questions against their legal and socio-political backgrounds by providing an overview of the his-

torical development, normative foundations and institutional frameworks of minimum income protection (see Section II.).

## II. Background: Developments, Standards and Institutions

The assumption of the State's obligation to guarantee a minimum level of subsistence rests on factual and normative developments: the origins of State responsibility to address poverty trace back centuries and are now widely recognised as part of a catalogue of human rights. However, these developments have not changed the need to implement, and potentially enhance, social policy measures: preventing poverty and ensuring participation in society continue to represent the most urgent and relevant goals.

### 1. From Charity and the Legal Order to Subjective Rights and Activation Measures

A widely recognised starting point for comprehensive State action in this regard is the English Poor Law. The 1601 Act for Relief of the Poor introduced the role of "overseers of the poor" in each parish. They were tasked with putting "to work all such persons married or unmarried, having no means to maintain them" and raise funds "by taxation [...] in such competent sum and sums of money as they think fit" a "convenient stock of [...] necessary ware and stuff to set the poor on work, and also competent sums of money, for, and towards the necessary relief of the lame, impotent, old, blind, and such other among them being poor, and not able to work, and also for the putting out of such children to be apprentices".<sup>4</sup> The Poor Law marked a turning point: with the emergence of states as political communities, charity gradually lost its predominance as a means of providing support to the poor. Another milestone in later developments at the end of the Enlightenment was the Prussian *Allgemeines Landrecht* of 1794, which established the State's obligation to provide food and sustenance to those citizens who were unable to support themselves.<sup>5</sup> However, the

---

4 The Statutes Project, '1601: 43 Elizabeth 1 c.2: Act for the relief of the poor' (2025) < <https://statutes.org.uk/site/the-statutes/seventeenth-century/1601-43-elizabeth-c-2-act-for-the-relief-of-the-poor/> > accessed 9.6.2025.

5 Teil II, Titel 19, § 1: "Dem Staate kommt es zu, für die Ernährung und Verpflegung derjenigen Bürger zu sorgen, die sich ihren Unterhalt nicht selbst verschaffen, und

development of a legal foundation did not imply recognition of a subjective right. Poverty was rather regarded as a disruption to the legal order, and the poor had to be protected from the “danger of perishing”.<sup>6</sup> This was particularly evident at the onset of industrialisation, as illustrated by the English Poor Law Amendment Act of 1834, which established workhouses and a more centralised administration.<sup>7</sup> The new law was a reaction to the debate on how to fight poverty.<sup>8</sup> This question continued to be discussed, as it had by no means been resolved with the establishment of the State’s responsibility to provide support for the poor. As captured by Hegel: “The important question, how poverty is to be done away with, is one which has disturbed and agitated society, especially in modern times.”<sup>9</sup>

The most significant steps towards the introduction of subjective rights to social assistance followed in the years after the Second World War. At the international level, the Declaration of Philadelphia of 1944 played a particularly important role. It became part of the International Labour Organization’s (ILO) Constitution and laid the foundation for a rights-based approach to social protection, grounded in the belief “that lasting peace

---

denselben auch von andern Privatpersonen, welche nach besonderen Gesetzen dazu verpflichtet sind, nicht erhalten können”, available at: <[https://digital.staatsbibliothek-berlin.de/werkansicht?PPN=PPN725960604&PHYSID=PHYS\\_0484&view=overview-toc&DMDID=DMDLOG\\_0001](https://digital.staatsbibliothek-berlin.de/werkansicht?PPN=PPN725960604&PHYSID=PHYS_0484&view=overview-toc&DMDID=DMDLOG_0001)> accessed 9.6.2025.

- 6 N. Senior, ‘Poor Law Commissioners’ Report of 1834, part II, section 1, para 3’ (2025) <<http://econlib.org/library/YPDBooks/Reports/rptPLCII.html>> accessed 9.6.2025.
- 7 By introducing “The Poor Law Commissioners for England and Wales”, Amendment Act 1834 available at: <<https://www.workhouses.org.uk/poorlaws/1834act.shtml>> accessed 9.6.2025.
- 8 See N. Senior (n 6), part II, section 1, para. 5: “But in no part of Europe except England has it been thought fit that the provision, whether compulsory or voluntary, should be applied to more than the relief of indigence, the state of a person unable to labour, or unable to obtain, in return for his labour, the means of subsistence. It has never been deemed expedient that the provision should extend to the relief of poverty; that is, the state of one, who, in order to obtain a mere subsistence, is forced to have recourse to labour.”
- 9 “Die wichtige Frage, wie der Armut abzuhelfen sei, ist eine vorzüglich die modernen Gesellschaften bewegende und quälende”, G. W. F. Hegel, *Grundlinien der Philosophie des Rechts oder Naturrecht und Staatswissenschaft im Grundrisse* (1821), §§ 244, 149, Zusatz (citation from suhrkamp taschenbuch wissenschaft 1976). Translation taken from Hegel’s *Philosophy of Right*, translated by S. W. Dyde (George Bell and Sons 1896), available at: <[https://archive.org/details/cihm\\_50473/page/n7/mode/2up?ref=ol&view=theater](https://archive.org/details/cihm_50473/page/n7/mode/2up?ref=ol&view=theater)> accessed 9.6.2025.

can be established only if it is based on social justice".<sup>10</sup> This development was also reflected at the national level. In 1954, the German Federal Administrative Court issued a decision on social assistance, declaring that the era of former Prussian law, where support for the poor was granted solely in pursuit of public interest and recipients were treated as mere objects of administrative action,<sup>11</sup> had come to an end. If a law required an administrative body to provide a given benefit, then those persons who fulfilled the legal conditions also had a right to that benefit.<sup>12</sup> Persons in need of support had to no longer beg for help but were now entitled to access support.<sup>13</sup>

This does not mean that the right to social assistance had to be free of obligations. By the end of the last century, activation had gained in importance. Originally rooted in labour market policy, it was incorporated into minimum income protection schemes.<sup>14</sup> At its core, activation requires recipients of social assistance to take up employment or, if necessary, undertake measures to improve their employability. On the one hand, this development could be perceived as an excess of neoliberalism, as a risk for solidarity and for the above-mentioned principle of social justice.<sup>15</sup> On the other, neoliberal policies follow different pathways. Even if they have a market-oriented focus, their actual outcome with regard to inequalities depends to a considerable degree on the design of the social protection

---

10 <[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/policy/wcms\\_142941.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/policy/wcms_142941.pdf)> accessed 9.6.2025.

11 Or as an object of moral improvement, see for social welfare in cities in the 1920ies W. Rudloff, 'The Welfare State and Poverty in the Weimar Republic', in: L. Raphael (ed.), *Poverty and Welfare in Modern German History* (Berghahn 2017), pp. 105, 144 ff.

12 Judgement of 24 June 1954, V C 78.54, BVerwGE 1, 159.

13 See also K.-J. Bieback, Die Entwicklung der „social assistance“ in Deutschland, Frankreich und im Vereinigten Königreich – von den „armen Armen“ zu den „berechtigten Armen“, in: U. Becker (ed.), *Rechtsdogmatik und Rechtsvergleich im Sozialrecht I* (Nomos 2010), pp. 217 ff.

14 See also A. Eleveld, T. Kampen and J. Arts (eds.), *Welfare to Work in Contemporary European Welfare States. Legal Sociological and Philosophical Perspectives on Justice and Domination* (Bristol University Press 2020); for arguments against conditionality A. Moreira, *The Activation Dilemma. Reconciling the fairness and effectiveness of minimum income schemes in Europe* (Cambridge University Press 2008).

15 See A. Supiot, *The Spirit of Philadelphia – Social Justice vs. the Total Market* (Verso 2012).

system.<sup>16</sup> Activation is intended to incentivise labour market participation,<sup>17</sup> with it, the State assumes additional responsibility, even if it pursues a public interest goal through increased labour market participation. It is no coincidence that the EU supports activation policies.<sup>18</sup> The broader process of European integration is often viewed critically from a social policy perspective. Yet, it is important to note that it does not necessarily undermine social policy as such but rather helps push it in a specific direction to reconcile economic objectives with social policies.<sup>19</sup>

Activation should not, of course, lead to a regression from the establishment of subjective rights.<sup>20</sup> It might also be used to promote a more comprehensive approach, for example by incentivising continued education. In this vein, a specific scheme in Denmark provides minimum income protection for individuals under the age of 30 without education.<sup>21</sup> Before we return our attention to social policy, we will first briefly discuss the human rights foundations for guaranteeing a minimum income.

## 2. Human Rights

### a) International Level

As already mentioned, the monitoring of the State's obligations began to be placed in the hands of the people themselves<sup>22</sup> after the Second World

---

16 See M. Fourcade-Gourinchas and S. L. Babb, 'The Rebirth of the Liberal Creed: Paths to Neoliberalism in Four Countries' *American Journal of Sociology* 198 (2002), pp. 533 ff.

17 See W. Eichhorst, O. Kaufmann and R. Konle-Seidl (eds.), *Bringing the Jobless into Work? Experiences with Activation Schemes in Europe and the US* (Springer 2008).

18 See Principle 14, Sent. 2 of the European Pillar of Social Rights: "For those who can work, minimum income benefits should be combined with incentives to (re)integrate into the labour market."

19 See U. Becker, 'Sozialstaatlichkeit in der Europäischen Union', in: A. Hatje (ed.), *Verfassungszustand und Verfassungsentwicklung in der Europäischen Union*, EuR Beih. 2 (2015), pp. 19, 31 ff.

20 For a critical assessment, see P. Larkin, 'The New Puritanism: The Resurgence of Contractarian Citizenship in Common Law Welfare States' *Journal of Law and Society* 41 (2014), pp. 227 ff.

21 Educational assistance, whereas the general scheme for assistance is also applicable for individuals under 30 with education, see J. Kvist, *ESPN Thematic Report: Access to social protection for young people*, (European Commission 2021), pp. 16 ff.

22 See H. Lauterpacht, *An International Bill of the Rights of Man* (Columbia University Press 1945).

War. One cornerstone of this development was the Universal Declaration of Human Rights (UDHR) of 1948.<sup>23</sup> Art. 22 links minimum income to social security, explicitly affirming the entitlement “to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” The International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966<sup>24</sup> stipulates that states “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” (Art. 11(1), Sent. 1). A separate provision on the right to social security (Art. 19) should, according to the Committee on ESCR, also be interpreted as requiring the State to provide social assistance.<sup>25</sup> This blurs the boundaries between different types of social benefit systems, making the rights under Articles 11 and 19 difficult to distinguish.<sup>26</sup> However, it can be explained by a certain State practice (see also below, Section 4) and the need to organise social security effectively.

These general human rights provisions are supplemented by other agreements.<sup>27</sup> They cover specific groups of individuals, and occasionally make

---

23 Of 10 December 1948, GA res. 217 A (III), available at: <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 9.6.2025.

24 Art. 11(1) ICSCR: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent”. Treaty text available at: <<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>> accessed 9.6.2025.

25 General Comment No. 19 of the Committee on ESCR to Art. 19 ICESCR, para. 50: ‘States parties will need to establish non-contributory schemes or other social assistance measures to provide support to those individuals and groups who are unable to make sufficient contributions for their own protection’, available at: <<https://digitallibrary.un.org/record/618890?v=pdf>> accessed 9.6.2025.

26 Although Art. 11 covers a broad range of aspects, it is often restricted to (the expressly mentioned) food and water, on the one hand, and clothing and housing, on the other, see B. Saul, D. Kinley and J. Mowbray, *The International Covenant on Economic, Social and Cultural Rights* (Oxford University Press 2014), pp. 861 ff.

27 Overview of international standards on the pages of the special rapporteur on extreme poverty and human rights, available at: <<https://www.ohchr.org/en/special-procedures/sr-poverty/international-standards>> accessed 9.6.2025.

use of similar terms such as “adequate standard of living”<sup>28</sup> or include a non-discrimination principle.<sup>29</sup> They also comprise regional instruments such as the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights<sup>30</sup> or the European Social Charter (ESC) of 1961 with its revision of 1996 (RESC)<sup>31,32</sup> The latter contains an obligation of the parties, “with a view to ensuring the effective exercise of the right to social and medical assistance”, to “ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition” (Art. 13(1) ESC and RESC).

All of these provisions share the limitation that they neither define the minimum level of subsistence or an adequate standard of living,<sup>33</sup> nor do they establish specific subjective rights.<sup>34</sup> The monitoring bodies, i.e. those

---

28 Art. 28 on adequate living and social protection of the UN Convention on the Rights of Persons with Disabilities, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>> accessed 9.6.2025.

29 Art. 23 on public relief of the Convention relating to the Status of Refugees, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>> accessed 9.6.2025.

30 Available at: <<https://www.oas.org/juridico/english/treaties/a-52.html>> accessed 9.6.2025.

31 ETS No. 35 and No. 163. The RESC and the Additional Protocol to the ESC Providing for a System of Collective Complaints, ETS No. 158, have not yet been ratified by all EU Member States (see: <<https://www.coe.int/en/web/european-social-charter>> accessed 9.6.2025).

32 In the African Charter on Human and Peoples’ Rights (available at: <<https://au.int/en/treaties/african-charter-human-and-peoples-rights>> accessed 9.6.2025), there is no specific right to social assistance, but a right to the best attainable state of health (Art. 16) as well as a “right to existence” (Art. 20(1), Sent. 1) and an obligation to “assist the family” (Art. 18(2)), the latter without any direct link to positive rights.

33 See C. O’Cinneide, ‘Giving Legal Substance to the Social Minimum’, in: T. Kotkas, I. Leijten and F. Pennings (eds.), *Specifying and Securing a Social Minimum in the Battle Against Poverty* (Bloomsbury Publishing 2019), pp. 183 ff.; J. Gilman, ‘The rights to social security and social assistance in the European Social Charter: Towards a positive content ... but what sort of content?’ EJSS 26 (2024), pp. 411 ff.; see for the progressive realisation clause (with far-reaching conclusions) O. De Schutter, ‘Public Budget Analysis for the Realization of Economic, Social and Cultural Rights’, in: K. Young (ed.), *The Future of Economic and Social Rights* (Cambridge University Press 2019) pp. 527 ff.

34 At least as far as concrete benefits are concerned; see for other individual legal positions (with regard to Art. 9 ICECSR) M. Kradolfer, ‘Verpflichtungsgrad sozialer

bodies mandated in the treaties to report on the progress of the realisation of human rights,<sup>35</sup> may contribute to defining the substance of the respective rights and obligations.<sup>36</sup> However, their implementation cannot depend on the legal enforcement by the persons concerned.<sup>37</sup> Even when international courts intervene<sup>38</sup> or when social rights are strengthened through their combination with other rights, such as under the European Convention on Human Rights (ECHR),<sup>39</sup> or when they are part of a legal order that supersedes national laws, e.g. the EU Charter of Fundamental Rights (EU CFR),<sup>40</sup> the situation remains largely unchanged. While international

---

Menschenrechte' Archiv des Völkerrechts 50 (2012), pp. 255 ff.; for the necessity of qualitative standards G. Vonk, *Welfare state dystopia as a challenge for the right to social security*, (Maastricht University 2024), < <https://doi.org/10.26481/spe.20240925gv> > accessed 9.6.2025.

35 See for the work of those bodies contributions in U. Becker, B. v. Maydell and A. Nußberger (eds.), *Die Implementierung internationaler Sozialstandards* (Nomos 2006); R. Brillat, 'The Supervisory Machinery of the European Social Charter: Recent Developments and their Impact', in: G. de Burca, B. de Witte and L. Ogertschnig (eds.), *Social Rights in Europe* (Oxford University Press 2005), pp. 31 ff.

36 See for a detailed analysis H. M. Adzakpa (n 3), pp. 182 ff. and 217 ff.; also A. Eleveld and G. Katrougalos, 'The right to social security and social assistance in the 'case law' and conclusions of the Social Rights Committee', in: F. Pennings and G. Vonk (eds.), *Research Handbook on European Social Security Law* (2<sup>nd</sup> ed. Edward Elgar Publishing 2023), pp. 64 ff.

37 But see also with regard to "structural shortcomings" G. Vonk and M. Olivier, 'The fundamental right to social assistance: A global, regional (Europe and Africa) and a national perspective (Germany, The Netherlands and South Africa)' EJSS 21 (2019), pp. 219 ff.

38 See contributions in C. Binder, A. Hofbauer, et al. (eds.), *Social Rights in the Case Law of Regional Human Rights Monitoring Institutions: The European Court of Human Rights, the Inter-American Court of Human Rights, the African Commission of Human and Peoples' Rights* (Neuer Wissenschaftlicher Verlag 2016).

39 Convention for the Protection of Human Rights and Fundamental Freedoms, ETS No. 5 of 1950 < <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty whole=005> > accessed 9.6.2025. For the interaction with the ESC, see I. E. Koch, 'Economic, Social and Cultural Rights as Components in Civil and Political Rights: A Hermeneutic Perspective' The International Journal of Human Rights 10 (2006), pp. 405 ff.; U. Becker, 'European Human Rights Protection: Towards a Multi-Level and Interdependent System based on Cooperation', in: F. Pennings and G. Vonk (eds.), *Research Handbook on European Social Security Law* (2<sup>nd</sup> ed. Edward Elgar Publishing 2023), pp. 85, 88 ff. See for the concept of human dignity used by the European Court of Human Rights V. Fikfak, L. Izvorova, 'Language and Persuasion: Human Dignity at the European Court of Human Rights' Human Rights Law Review 22 (2022) 3, pp. 1 ff.

40 First solemnly proclaimed on 7 December 2000, OJ C 364/1.

law can have binding effects in individual cases, it cannot guarantee an effective right to a minimum income. There is a lack of competence at the international level due to the existing structures of democratic legitimacy, which also applies within the EU. The EU CFR addresses, *inter alia*, social assistance (Article 34(3)),<sup>41</sup> but does not contain enforceable social rights for EU citizens, given its scope of application<sup>42</sup> and the distinction between 'rights' and 'principles'.<sup>43</sup>

Ultimately, the implementation of the obligation to guarantee a minimum income under international law rests largely on national processes through which international human rights standards are integrated into domestic legal systems, whether through political decisions and legislative acts or through court decisions that interpret national provisions in light of these standards.

#### b) National Level

Social rights can also derive their legal foundation from national constitutions. The national level is where their story began. The first constitutional foundations were laid in the early 20<sup>th</sup> century in the Constitutions of Mexico (1917), the Russian Soviet Federated Republic (1918) and Germany (1919). Today, many constitutions around the world enshrine social rights,<sup>44</sup> often introduced after revolutions, as witnessed in countries such as India, Spain, Portugal or South Africa.

To better understand these rights, it does not suffice to focus solely on the wording of the relevant provisions. The right to a minimum level of

---

41 'In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.'

42 Art. 51, para. 1, Sent. 1 CFR; see ECJ of 6 March 2014, Case C-206/13 *Cruciano Siragusa v Regione Sicilia* [2014] ECLI:EU:C:2014:126, paras. 24 and 25.

43 Art. 51, para 1. Sent. 2, Art. 52, paras. 2 and 5 CFR.

44 See C. Jung, R. Hirsch and E. Rosevear, 'Economic and Social Rights in National Constitutions' AJCL 62 (2014), pp. 1043 ff.; E. Rosevear, R. Hirsch and C. Jung, 'Justiciable and Aspirational Economic and Social Rights in National Constitutions', in: K. Young (ed.), *The Future of Economic and Social Rights* (Cambridge University Press 2019), pp. 37 ff.; J. King, 'Social rights in comparative constitutional theory', in: G. Jacobsohn and M. Schor (eds.), *Comparative Constitutional Theory* (Edward Elgar Publishing 2018), pp. 144 ff.

subsistence can even be derived from a provision that does not explicitly contain a social right. It is the courts that are driving such developments.<sup>45</sup> A prominent example is a 2010 decision of the German Federal Constitutional Court, which derived a “fundamental right to the guarantee of a subsistence minimum” from the right to human dignity (Art. 1(1) of the Basic Law) in conjunction with the social state principle (Art. 20(1) of the Basic Law).<sup>46</sup>

This example will not be examined in greater detail here. This book does not aim to explore the role of constitutional social rights from a doctrinal point of view, nor to argue whether the right to dignity should entail a positive dimension.<sup>47</sup> Our focus instead lies in assessing whether, and to what extent, such rights influence the creation and implementation of minimum income protection. Before turning our attention to the national level, however, we must first review efforts to establish a political—or from another perspective, a *soft law*—framework for minimum income protection at the international level.

---

45 See A. Mamelí, ‘Judicial review, social antagonism and the use of litigation as a tool for combating poverty’, in: L. Williams, A. Kjønstad and P. Robson (eds.), *Law and Poverty: The Legal System and Poverty Reduction* (Zed Books 2003), pp. 139 ff.; J. King, *Judging Social Rights* (Cambridge University Press 2012).

46 Judgement of 9 February 2010, 1 BvL 1/09, available 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 9.6.2025. See for the importance of this judgment also C. O’Cinneide, ‘The Present Limits and Future Potentials of European Social Constitutionalism’, in: K. Young (ed.), *The Future of Economic and Social Rights* (Cambridge University Press 2019), pp. 324, 349.

47 See R. Alexy, *Theorie der Grundrechte* (Suhrkamp 1986), pp. 395 ff.; R. Alexy, ‘Social Constitutional Rights and Proportionality’, in: M. Langford, K. Young (ed.), *The Oxford Handbook of Economic and Social Rights*, online ed. (18 Aug. 2022) < <https://doi.org/10.1093/oxfordhb/9780197550021.013.27> > accessed 11 June 2025; C. Fabre, *Social Rights Under the Constitution: Government and the Decent Life* (Oxford University Press 2010). See also 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. Explorations of a Contested Concept* (Nomos 2018), pp. 415 ff.; and in a comparative perspective S. Civitarese Matteucci and G. Repetto, ‘The expressive function of human dignity: A pragmatic approach to social rights claims’ *EJSS* 23 (2021), pp. 120 ff. On the situation in Britain, see C. Gearty, ‘Socio-Economic Rights, Basic Needs, and Human Development: A Perspective from Law’s Front Line’, in: C. McCrudden (ed.), *Understanding Human Dignity* (Oxford University Press 2013), pp. 1565 ff. Without focus on positive rights or state obligations for minimum income protection, see P. Becchi, K. Mathis (eds.), *Handbook of Human Dignity in Europe* (Springer 2019).

### 3. Recommendations

Due to the open wording of human rights provisions, the distribution of competences, and the inherently complex nature of poverty prevention as a socio-political task, binding legal obligations may be supplemented and specified by recommendations. These recommendations can influence social policy at the national level.<sup>48</sup> Since their potential impact will be dealt with in the following chapters, a more detailed analysis is not necessary here.

At the global level, the ILO has introduced the concept of “social protection floors” in response to the recognition that ILO Convention 102,<sup>49</sup> referred to as the “Magna Carta of social security”, is no longer sufficient to address future challenges, as it excludes emerging social risks and does not take evolving developments such as activation policies and privatisation into account.<sup>50</sup> Although the ILO continues to use the term “social security”, it now recommends Member States to establish and maintain social protection floors that include “basic income security” for children, working-age persons who are unable to earn sufficient incomes, and older persons.<sup>51</sup> According the recommendation, “basic income security should allow life in dignity”.<sup>52</sup>

---

48 On the postulation that ‘soft law’ plays a considerable and at least supplementary role for implementation, see A. Supiot, ‘The Position of Social Security in the System of International Labor Standards’, *Comparative Labour Law and Policy Journal* 27 (2006), pp. 113, 116 ff.

49 Of 1952, available at: <[https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C102](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C102)> accessed 9.6.2025.

50 See U. Becker, F. Pennings and T. Dijkhoff (eds.), *International Standard-Setting and Innovations in Social Security* (Wolters Kluwer 2013).

51 Paras. 4 and 5 of Social Protection Floors Recommendation No. 202 of 2012, available at: <[https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:3065524:NO](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3065524:NO)> accessed 9.6.2025. See for the approach and case studies T. Dijkhoff and L. G. Mpedi (eds.), *Recommendation on Social Protection Floors: Basic Principles for Innovative Solutions* (Wolters Kluwer 2018).

52 Para. 8(b), Sent. 1 of Rec. 202 of 2012 (fn. 51), with the following addition (Sent. 2): “Nationally defined minimum levels of income may correspond to the monetary value of a set of necessary goods and services, national poverty lines, income thresholds for social assistance or other comparable thresholds established by national law or practice, and may take into account regional differences.”

The EU has developed various instruments to influence national social policies,<sup>53</sup> including the Open Method of Coordination and the European Semester.<sup>54</sup> The latter has served as a platform for Member State-specific recommendations aimed at enhancing budgetary discipline. In some cases, it has also been used as a platform for recommendations on improvements in social assistance schemes.<sup>55</sup> To provide a broader foundation for EU social policy, EU institutions proclaimed the European Pillar of Social Rights (EPSR) in 2017.<sup>56</sup> According to the European Commission, the EPSR is intended to deliver “new and more effective rights for citizens”, although its content is described as comprising “key principles”.<sup>57</sup> This “Pillar” is not cast in stone but is a legally non-binding social policy programme.<sup>58</sup> Nevertheless, it formulates shared expectations for robust social protection through a comprehensive catalogue of principles, partly building on previous measures and partly introducing new objectives. One such new objective is Principle 14, Sent. 1: “Everyone lacking sufficient resources has the right to adequate minimum income benefits ensuring a life in dignity at all stages of life, and effective access to enabling goods and services.”

The concept of “minimum income” was chosen over the traditional term “social assistance” to take account of future developments.<sup>59</sup> Even without advocating for a universal basic income or citizens’ income, such flexibility

---

53 For a detailed analysis, see A. Aranguiz, *Combating Poverty and Social Exclusion in European Union Law* (Routledge 2022).

54 On the development, see U. Becker (n 19), pp. 27 ff. See also S. Smismans, ‘How to Be Fundamental with Soft Procedures? The Open Method of Coordination and Fundamental Social Rights’, in: G. de Burca, B. de Witte and L. Ogertschnig (eds.), *Social Rights in Europe* (Oxford University Press 2005), pp. 217 ff. For a European and comparative social policy perspective M. Jessoula and I. Madama (eds.), *Fighting Poverty and Social Exclusion in the EU, A Chance in Europe 2020* (Routledge 2020).

55 See Communication from the Commission, Country Report Bulgaria, 2017 European Semester, SWD(2017) 68 final/2.

56 See for the booklet: <[https://commission.europa.eu/document/download/e03c60e7-4139-430b-9216-3340f7c73c20\\_en?filename=social-summit-european-pillar-social-rights-booklet\\_en.pdf](https://commission.europa.eu/document/download/e03c60e7-4139-430b-9216-3340f7c73c20_en?filename=social-summit-european-pillar-social-rights-booklet_en.pdf)> accessed 9.6.2025.

57 European Commission ‘The European Pillar of Social Rights in 20 Principles’ (24 October 2023) <[https://employment-social-affairs.ec.europa.eu/european-pillar-social-rights-20-principles\\_en](https://employment-social-affairs.ec.europa.eu/european-pillar-social-rights-20-principles_en)> accessed 9.6.2025.

58 For a detailed analysis of its contents, character and legal as well as political functions, see U. Becker, ‘Die Europäische Säule sozialer Rechte’ ZÖR 73 (2018), pp. 525, 528 ff.; see also F. Hendrickx, ‘The European Social Pillar: A first evaluation’ European Labour Law Journal 9 (2018), pp. 3 ff.

59 Commission Staff Working Document, Accompanying Communication on Establishing a European Pillar of Social Rights, SWD (2017) 201 final, p. 56.

is appropriate. Different social security systems exist in Member States, which guarantee both conditional and unconditional minimum social protection (see II.4.). Securing “life in dignity” as the underlying goal of social protection aligns with the EU CFR (see II.2.), which recognises “human dignity” as a constitutional starting point (Art. 1) and describes the aim of assistance benefits as ensuring “a decent existence” (Art. 34(3)).

As a step towards realising the EPSR,<sup>60</sup> the Council adopted a Recommendation “on adequate minimum income ensuring active inclusion” in early 2023.<sup>61</sup> It recommends Member States to “provide and, where necessary, strengthen robust social safety nets that guarantee life in dignity at all stages of life, by combining adequate income support – through minimum income benefits and other accompanying monetary benefits – and in-kind benefits, and giving effective access to enabling and essential services” and to “set the level of minimum income through a transparent and robust methodology defined in accordance with national law and by involving relevant stakeholders” (paras. 3 and 4). The overall goal, according to the Recommendation is to combat “poverty and social exclusion” (para. 1).

The underlying concept of poverty is not based on a universal absolute minimum income as used by the UN to define “extreme poverty” in the context of the SDGs (see above, I.1.),<sup>62</sup> but follows a relative threshold. This is generally a suitable approach, as both the physical and socio-cultural costs of the minimum level of subsistence vary from country to country. However, it is debatable<sup>63</sup> whether a cross-country standardised “poverty

---

60 See also S. Akarçesme, A. Aranguiz, et al., ‘Reaching the European 2030 Poverty Target: The Imperative to Balance the EU Social Agenda’ EJSS 26 (2024), pp. 347 ff.

61 2023/C 41/01 of 30 January 2023, OJ C 41, p. 1, replacing Council Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems (OJ L 245, 26.8.1992, p. 46). See on the Recommendation of 1992 P. Guibentif and D. Bouget, *Minimum Income Policies in the European Union* (União das Mutualidades Portuguesas 1997), pp. 83 ff. The EU lacks the competence to adopt the initially planned directive, see U. Becker (n 58), pp. 525, 535; but see also A. Van Lancker, A. Aranguiz and H. Verschueren, *Expert Study on a Binding EU Framework on Adequate National Minimum Income Schemes* (EAPN Study 2020).

62 Defined (at present) as “surviving on less than \$ 2.15 per person per day at 2017 purchasing power parity”, see <<https://www.un.org/sustainabledevelopment/poverty/>> accessed 9.6.2025.

63 On questions about the definition of poverty, see S. Marchal and I. Marx, *Zero Poverty Society: Ensuring a Decent Income for All* (Oxford University Press 2024), pp. 1 ff. and 181 ff.; E. Eichenhofer, ‘Poverty Measurement and Poverty Alleviation between Norm-Setting and Empirical Inquiries’, in: T. Kotkas, I. Leijten and F.

threshold” can accurately reflect the societal and economic realities of deprivation. Eurostat applies such a threshold to calculate the “at-risk-of-poverty rate”, setting it “at 60 % of the national median equivalised disposable income after social transfers”.<sup>64</sup> This threshold does not define poverty. As an indicator, it has been refined by the “at risk of poverty or social exclusion” (AROPE), which includes “persons who are either at risk of poverty, or severely materially and socially deprived or living in a household with a very low work intensity”.<sup>65</sup> In this context, the “severe material and social deprivation rate” (SMSD) is an EU-SILC indicator “showing an enforced lack of necessary and desirable items to lead an adequate life, distinguishing between individuals who cannot afford a certain good, service or social activities”.<sup>66</sup>

These indicators contribute to a multifaceted concept of poverty, serving as a suitable tool for identifying situations in which social policy measures are necessary. However, they are likely less useful when legislators must determine the calculation of specific social protection benefits.<sup>67</sup>

---

Pennings (eds.), *Specifying and Securing a Social Minimum in the Battle Against Poverty* (Bloomsbury Publishing 2019), pp. 111 ff.; I. Becker, ‘Armut und Reichtum im Teilhabediskurs – die Frage nach den Grenzen’, *Sozialer Fortschritt* 73 (2024), pp. 843 ff. See for the use of reference budgets C. Deeming, *Minimum Income Standards and Reference Budgets: International and Comparative Policy Perspectives* (Policy Press 2021). For poverty as discrimination, S. Jørgensen, ‘Social assistance and the end of poverty’ *EJSS* 26 (2024), pp. 27 ff.

64 See Eurostat, ‘Glossary: At-risk-of-poverty rate’ <[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:At-risk-of-poverty\\_rate](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:At-risk-of-poverty_rate)> accessed 6.9.2025.

65 Serving as the “main indicator to monitor the EU 2030 target on poverty and social exclusion”, see Eurostat, ‘Glossary: At risk of poverty or social exclusion (AROPE)’ <[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:At\\_risk\\_of\\_poverty\\_or\\_social\\_exclusion\\_\(AROPE\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:At_risk_of_poverty_or_social_exclusion_(AROPE))> accessed 6.9.2025.

66 Defined as the “proportion of the population experiencing an enforced lack of at least 7 out of 13 deprivation items (6 related to the individual and 7 related to the household)”, see Eurostat, ‘Glossary: Severe material and social deprivation rate (SMSD)’ <[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Severe\\_material\\_and\\_social\\_deprivation\\_rate\\_\(SMSD\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Severe_material_and_social_deprivation_rate_(SMSD))> accessed 9.6.2025.

67 Which is a step that involves political decisions on the “appropriateness” of benefits; see A. Briggs, ‘The Welfare State in Historical Perspective’ *European Journal of Sociology* 2 (1961), pp. 221 ff.; and those decisions raise the question of democratic legitimisation; see also rather generally F. I. Michelman, ‘Social Minimums and Democracy’, in: M. Langford and K. Young (eds.), *The Oxford Handbook of Economic and Social Rights* (Oxford University Press 2022).

#### 4. Institutions

Most welfare states have a variety of social protection schemes. Social protection is used here as a broad term, encompassing all types of social benefits and various forms of governmental interventions. From a comparative perspective, certain fundamental characteristics of these schemes have developed over time, shaped by their intended functions and the need for effective administrative institutions to manage the distribution of social benefits. This has led to a typology of social protection schemes, even though their actual architecture and the combination of schemes vary significantly across countries. Social protection schemes can be grouped by their specific functions: (1) social insurance provides protection against social risks; (2) social support delivers benefits in situations of (positive) social need, such as education for children; (3) social assistance addresses (negative) social needs resulting from poverty; (4) social compensation covers damages in cases of shared societal responsibility. In a narrower sense, the term social security refers mainly to social insurance and certain support benefits, namely family allowances. As a rule, social insurance is funded by contributions, while other types of schemes are usually financed from the general State budget, i.e. taxes. Yet, there are some exceptions to this, as many social insurance schemes are subsidised by the State, as is the essential infrastructure they rely on, such as hospitals and care homes.

Social assistance systems lie at the heart of minimum income protection,<sup>68</sup> and are therefore central to the following chapters. These systems are typically universal in terms of personal coverage and are usually means-tested, meaning that eligibility for social assistance benefits depends on a person's financial need.

However, it should be noted that systems designed for a specific primary function can also serve a secondary social policy function.<sup>69</sup> In some coun-

---

68 From a social policy perspective, 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), pp. 57 ff.; A. Noel, 'The Politics of Minimum Income Protection in OECD Countries' *Journal of Social Policy* 48 (2019), pp. 227 ff.; F. Neumann, *Soziale Mindestsicherung in Europa: Leistungsprofile im Vergleich* (LIT 2016).

69 And that the question how social security benefits relate to social assistance benefits always has been one of concern, see for the early post-WWII development in the UK, R. M. Titmuss, 'The Welfare State: Images and Realities' *The Social Service Review* 37 (1963) 1, pp. 8 ff.

tries, for instance, certain old-age pension systems effectively operate as family benefits. More relevant to our context is the fact that, in many countries, old-age pension systems are designed not only to maintain a certain standard of living for pensioners but also to ensure a minimum income.<sup>70</sup> The above-mentioned State subsidies may facilitate this dual purpose. In a sense, social insurance can, to some extent, be universalised. Within health insurance systems, governments can guarantee access to healthcare by covering the contributions of those who cannot afford them. Family and housing benefits primarily support families and help secure adequate housing, but they may also contribute to ensuring specific elements of a minimum income. This functional overlap often results in intersecting social benefits. As a result, coordination between different schemes can become problematic, especially since these schemes may apply to different population groups and operate under varying conditions. Such complexity makes implementation, and sometimes even the identification of a specific social policy objective, difficult.

What we do not expect to find are systems providing a Universal Basic Income (UBI). Although the terminology and specific design of such transfer systems may vary, the underlying idea of detaching social protection from economic activity is not new. It flares up periodically,<sup>71</sup> particularly in the current context of ecological transformation and the digitalisation of labour.<sup>72</sup> Without discussing their respective advantages and disadvantages

---

70 See U. Becker, 'Leistungen für langjährige Rentenversicherte in Südeuropa – Eine rechtsvergleichende Analyse' ZIAS 26 (2012)1, pp. 1, 13 ff.; S. Devetzi (ed.), *Minimum Income in Old Age. A Legal Comparison of Selected European Countries* (Sakkoulas Publications 2023); S. Devetzi and F. Pennings, 'Minimum income schemes for the elderly: A comparative analysis of benefit conditions that may affect their right to live in dignity' EJSS 27 (2025), pp. 3 ff.

71 See P. van Parijs and Y. Vanderborght, *Basic Income: A Radical Proposal for a Free Society and a Sane Economy* (Harvard University Press 2017); G. Allègre and P. van Parijs (eds.), *Pour ou contre le revenu universel?* (puf 2018); P. Alston, 'Universal Basic Income as a Social Rights-Based Antidote to Growing Economic Insecurity', in: K. Young (ed.), *The Future of Economic and Social Rights*, (Cambridge University Press 2019), pp. 377 ff.; M. Torry, *Basic Income: A History* (Edward Elgar Publishing 2021); M. Torry, *Unconditional, Towards Unconditionality in Social Policy* (Edward Elgar Publishing 2024); for other publications from the same author see: < <https://torry.org.uk/basic-income> > accessed 9.6.2025.

72 In the context of the platform industry, see U. Becker and O. Chesalina, 'Social Protection of Platform Workers in a Comparative and European Perspective', in: *ibid.* (eds.), *Social Law 4.0: Update* (Nomos 2025), pp. 117, 131 ff.; see for an "emergency

here, UBI initiatives have remained limited to small-scale experiments.<sup>73</sup> To date, UBI remains more a concept than a reality, and there are strong reasons to assume that it will not replace traditional social benefit systems in the foreseeable future.

### III. Substance and Outline

#### 1. Aims and Definitions

##### a) Research Questions

The aim of this book is to analyse the obligations of the State to protect individuals residing within its territory by guaranteeing a minimum level of subsistence, both in terms of its normative foundations and its practical implementation from a legal perspective.<sup>74</sup>

The underlying questions are:

- What social benefit systems exist with the aim of guaranteeing a minimum income?
- How is minimum subsistence defined, and to what extent does it include participatory elements?
- What is the legal background—relevant constitutional provisions, as well as global and regional international law—with regard to guaranteeing a minimum income?
- To what extent do normative guidelines (human rights and policy recommendations) influence the respective national legislation?
- Is the provision of benefits based on enforceable subjective rights?
- To what extent are courts involved?

---

income” contributions in: J. De Wispelaere and T. Henderson (eds.), ‘Themed double issue: Emergency basic income: Distraction or opportunity?’ ISSR 77 (2024), pp. 3 ff.

73 For experiments, see J. Chrisp and J. De Wispelaere, ‘Parading Utopia on the road to nowhere? An introduction to the special issue on the policy impact of the European basic income experiments’ EJSS 24 (2022), pp. 167 ff. See for calculations in the US-American context M. P. Fleischer and D. Hemel, ‘The Architecture of a Basic Income’ The University of Chicago Law Review 97 (2020), pp. 625 ff.

74 See for a social policy perspective G. Standing (ed.), *Minimum Income Schemes in Europe* (International Labour Organization 2003); T. Bahle, V. Hubl and M. Pfeifer, *The Last Safety Net, A Handbook of Minimum Income Protection in Europe* (Policy Press 2011).

- What are the access conditions for receiving minimum income protection benefits?

Implementation is considered only in terms of how different social benefit systems interact, as this interaction can create difficulties (see II.4.), yet understanding it is essential to grasp the national social protection architecture as a whole. This concept of implementation does not extend to practical issues such as take-up rates, redistributive effects,<sup>75</sup> administrative efficiency of social benefits<sup>76</sup> or the practical effects of activation policies. Instead, it focuses on the legal conditions that shape the scope of application and, as a result, determine where overlaps or gaps exist between social benefit systems.

#### b) Limitations

To focus on the issues outlined above, various aspects of minimum protection have been excluded from the scope of research. This is not to suggest that these aspects are not important. On the contrary, they would require a separate analysis.

This applies primarily to benefits in kind. While they are mentioned in the following chapters, they are not described or analysed in depth. They are, of course, of major significance to the practical implementation of minimum income support. However, including them in our study would necessitate a detailed examination of a set of legal relationships between administrative bodies and benefit providers, between benefit providers and recipients, as well as of the interactions between these relationships.<sup>77</sup> Such an analysis lies outside the scope of this study.

---

75 See OECD, 'Income support, redistribution and work incentives' <<https://www.oecd.org/en/topics/income-support-redistribution-and-work-incentives.html>> accessed 9.6.2025.

76 See OECD estimates for 14 OECD countries, 'How reliable are social safety nets in situations of acute economic need?' <[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)> accessed 9.6.2025. With a view to crisis resilience, Federal Ministry of Labour and Social Affairs, *Minimum income support systems as elements of crisis resilience in Europe, Final Report* (January 2023), pp. 23 ff.

77 For the legal construction with a view to care, see U. Becker, 'Long-Term Care in Europe: An Introduction', in: U. Becker and H.-J. Reinhard (eds.), *Long-Term Care in Europe: A Juridical Approach* (Springer 2018), pp. 1, 11 ff.

The second limitation concerns the personal scope of provisions, namely special provisions for certain population groups. As mentioned above (see II.3.), poverty reduction policy has also developed a focus on barriers to social participation. To overcome such barriers, targeted social policy measures for especially vulnerable groups are needed.<sup>78</sup> Such measures, in particular special benefits for persons with disabilities, are not the primary focus here, as our aim is to identify general principles for supporting individuals in need. Nevertheless, such provisions are mentioned in some chapters, depending on their relevance for the national social protection framework.

A third limitation also relates to the personal scope of application of the relevant provisions, but not in relation to personal physical or mental conditions, but to nationality. We only touch briefly on the question whether, and if so, under what conditions, foreign nationals are entitled to a right to a minimum income. This question would warrant a separate, detailed analysis, as it raises fundamental questions about inclusion and exclusion within society,<sup>79</sup> as well as the personal and territorial responsibility of a political community<sup>80</sup>. It also involves considerations of solidarity,<sup>81</sup> human rights, and the principle of non-discrimination. These issues have become particularly relevant and widely discussed within the context of the EU due to the free movement of persons, and are important for community building as well as for the Union's political role. Initially, the CJEU emphasised the relevance of primary law and the principle of non-discrimination,<sup>82</sup> but later shifted its focus to secondary law and the need to prevent social assistance-driven migration between Member States.<sup>83</sup> More recently, the

---

<sup>78</sup> See L. Ratti (ed.), *In-Work Poverty in Europe: Vulnerable and Under-Represented Persons in a Comparative Perspective* (Wolters Kluwer 2022).

<sup>79</sup> See H. F. Zacher, 'Die Bundesrepublik Deutschland als Sozialstaat: Eine Geschichte des sozialen Einschlusses im Zeichen von Nationalisierung und Internationalisierung' ZIAS 16 (2002)3, pp. 193 ff.

<sup>80</sup> See U. Becker, 'The Challenge of Migration to the Welfare State', in: E. Benvenisti and G. Nolte (eds.), *The Welfare State, Globalization, and International Law* (Springer 2003), pp. 1 ff.

<sup>81</sup> See with a view to European integration, A. Sangiovanni, 'Solidarity in the European Union' Oxford Journal of Legal Studies 33 (2013), pp. 213 ff.

<sup>82</sup> For a summary, see U. Becker, 'Freizügigkeit in der EU – auf dem Weg vom Be gleitrecht zur Bürgerfreiheit' EuR (1999), pp. 522 ff.

<sup>83</sup> ECJ of 11 November 2014, Case C-333/13 – *Dano*; of 15 September 2015, Case C-67/14 – *Alimanovic*; of 25 February 2016, Case C-299/14 – *García-Nieto*; see U. Becker, 'Migration und soziale Rechte' ZESAR (2017)3, pp. 101 ff.

Court rightly stressed, by referring to the EU CFR, that all individuals residing in a Member State's territory are entitled to fundamental rights, including the right to human dignity, and that these rights must not be violated by denying social benefits.<sup>84</sup>

## 2. Selection of Countries

The selection of countries included in this book did not follow the well-known categories of welfare<sup>85</sup> and welfare state models<sup>86</sup> which are still frequently used, including in the context of minimum income protection.<sup>87</sup> Instead, the selection was made based on the specific characteristics of minimum income protection and its legal and social policy background. This approach resulted in a selection of countries that covers different geographical regions and diverging conceptions of the welfare state.

In a sense, *Germany* served as a starting point, not least because the question raised at the outset (see I.) is particularly relevant there, given that the right to a minimum standard of living is guaranteed under German constitutional law, albeit not explicitly in the country's Constitution itself, but through case law (see II.2.b)). The *United Kingdom* is included in the study because its social assistance and social support systems underwent a major reform, with different schemes unified under the "Universal Credit".<sup>88</sup> The three Southern European states—*Italy*, *Spain* and *Greece*—are included for a similar reason: major reforms were introduced to establish

---

84 ECJ of 15 July 2021, Case C-709/20 – *CG*; see H. Verschueren, 'The right to social assistance for economically inactive migrating Union citizens: The Court disregards the principle of proportionality and lets the Charter appease the consequences' *Maastricht Journal of European and Comparative Law* 29 (2022), pp. 483 ff.; F. Wollenschläger, 'An EU Fundamental Right to Social Assistance in the Host Member State? The CJEU's Ambivalent Approach to the Free Movement of Economically Inactive Union Citizens Post Dano' *European Journal of Migration and Law* 24 (2022), pp. 151 ff.

85 G. Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton University Press 1990).

86 See W. A. Arts and J. Gelissen, 'Models of the Welfare State', in: F. G. Castles, S. Leibfried, et al. (eds.), *The Oxford Handbook of the Welfare State* (Oxford University Press 2010), pp. 569 ff.

87 Although taking benefit-specific models into account, see Federal Ministry of Labour and Social Affairs (n 76).

88 See P. Larkin, 'Universal Credit, 'Positive Citizenship', and the Working Poor: Squaring the Eternal Circle?' *The Modern Law Review* 81 (2018), pp. 114 ff.

(stronger) universal social assistance benefits, although Italy has recently taken a step backwards.

To gain a more comprehensive picture of Europe's minimum income protection, we included countries from different regions and of varying sizes. These are *Bulgaria, France, Ireland, Norway, Poland and Slovenia*, listed in alphabetical order.

Last but not least, as this book aims to deepen the understanding of the normative and state-philosophical foundations of minimum income protection, we sought to broaden the horizon by including case studies from other regions of the world. In this context, it was important to select countries that already have comprehensive social benefit systems in place. We therefore included *Brazil, Chile and Mexico* for Latin America, as well as *Japan* and the *Republic of Korea* for Asia.

### 3. Structure of the Chapters

Every chapter begins with a brief introduction highlighting the relevance of the research questions, along with an overview of political debates, the historical and socio-economic contexts and legal developments in the country.

The second section provides an overview of the landscape of social protection and its normative background. This includes substantial aspects such as the importance of global and regional human rights, policy recommendations and national constitutions, as well as institutional components, for example subjective rights and access to courts. The overview of minimum protection schemes focuses on their structures, their role in guaranteeing a minimum income, and on their interactions with other social benefit schemes.

The subsequent analytical section of each chapter highlights cross-cutting issues as well as national peculiarities including specific features of minimum income protection and protection of specific groups of persons. Through this approach, the individual chapters aim to provide detailed information that lays the groundwork for a comparative analysis of different legal systems. At the same time, the chapters are designed to present a picture of minimum income protection that can stand and be read independently, showcasing the distinctive features of each country.

The book's final chapter presents our conclusions from a comparative perspective.

