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Social Security in Chile

General Overview

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LIST OF ABBREVIATIONS

AFC	Unemployment Fund Administrator
AFP	Pension Fund Administrator
APSI	Solidarity Invalidation Pension Contribution
APSV	Solidarity Old-Age Pension Contribution
AUGE/GES	Explicit Health Guarantees
BCN	Library of the National Congress of Chile
BNE	National Job Board
BTM	Women’s employment subsidy
CAPREDENA	National Defence Social Security Fund
CASEN	National Socioeconomic Characterization Survey
CCAF	Family Allowance Compensation Fund
CEN	National Ergonomics Commission
CENABAST	Central Supply Centre
CIC	Individual Unemployment Account
CIEDESS	Corporation for Research, Study and Development of Social Security
CLP	Chilean pesos
CMF	Commission for the Financial Market
CPR	Political Constitution of the Republic
CMR	Regional Medical Commission
COMPIN	Preventive Medicine and Invalidation Commission
CS	Supreme Court
DIPRECA	Social Security Directorate of Carabineros de Chile

DFL	Decree with Force of Law
DL	Decree-Law
DS	Supreme Decree
FCS	Solidarity Unemployment Fund
FONASA	National Health Fund
IEF	Ethical Family Income
INE	National Institute of Statistics
INP	Social Security Normalisation Institute
IPC	Consumer Price Index
IPS	Social Security Institute
ISAPRES	Health Insurance Institutions
ISL	Labour Safety Institute
ISP	Public Health Institute
JUNJI	National Council of Kindergartens
MAI	Institutional Care Modality
MDSF	Ministry of Social Development and Family
MINSAL	Ministry of Health
MLE	Free Choice Modality
MPISOC	Max Planck Institute for Social Law and Social Policy
OMIL	Municipal Labour Intermediation Offices
PBS	Basic Solidarity Pension
PGU	Guaranteed Universal Pension
SEJ	Youth employment subsidy
SENCE	National Employment Service

- SII ----- Internal Revenue Service
- SIS----- Invalidation and Survivors' Insurance
- SP ----- Superintendency of Pensions
- SUF ----- Unified Family Subsidy
- SUSESO ----- Superintendency of Social Security
- TC ----- Constitutional Court
- UF----- Unidad de Fomento
- UNDP (PNUD) ----- United Nations Development Programme
- UTM ----- Monthly Tax Unit
- WAOD----- Work and Occupational Diseases

1. INTRODUCTION

This report provides a general overview of the Chilean architecture of social insurance and social welfare schemes while also accounting for the socio-political background of social benefits/social services (section 2), and the impact of constitutional (section 3) and international law (section 4), where relevant. More specifically, this report analyses the regulation, coverage, benefits, financing, and administration of the old-age and disability pension system (section 5), the healthcare system (section 6), the work accidents and occupational diseases insurance system (section 7), the family benefits system (section 8), the unemployment insurance system (section 9) and a short note on social security of self-employed persons (section 10). This report closes with concluding remarks (section 11), a list of references (section 12) and a selection of recent bibliography, including books, articles and internet sources (section 13).

2. BACKGROUND INFORMATION

Chile is among the pioneering countries in Latin America in establishing social security systems. The first social laws were enacted in the first decade of the 20th century, including the chair law (1904), the law on workers' housing (1906) and the law on Sunday rest (1907). Later, in 1924, compulsory workers' insurance and a pay-as-you-go social security programme were established, financed by contributions from the employer, the State and the workers, to which family allowances and unemployment insurance were later added. From 1937 onwards, a family allowance was introduced, paid directly to the contributor for each dependent member of his family. During the second half of the 20th century, several policies related to maternity and childcare were implemented, which led to a drastic decrease in infant mortality and malnutrition rates. In addition, basic health services and access to basic and secondary education were progressively expanded.

Yet, these advances stalled when Augusto Pinochet's dictatorship (1973-1990) implemented a series of structural reforms in the economic and social sector. During the dictatorship, social policies favoured subsidies and transfers and were allocated according to strict targeting criteria to the poorest population and the most vulnerable groups in the country, with special emphasis on child and maternity protection. More generally, Pinochet implemented a number of structural reforms to the economic and social sectors, consisting of the privatisation of social services, such as health, education and social security, with the aim of sharply reducing social spending. One of the landmark reforms during this period was replacing the pay-as-you-go pension system with an individually funded model run by private, for-profit institutions, which paved the way for the structural reform that privatised social security pensions in Latin America.

Upon returning to democracy, subsequent administrations introduced several reforms in social policy, including increasing social spending, broadening the beneficiary groups of social policies and incorporating gender equality into the public agenda. Among the most relevant reforms promoted by the post-dictatorship democratic administrations were the creation of a system of guarantees of access to free health benefits for a series of pathologies (AUGE plan, later GES) in 2005, and the establishment of a State guarantee of a minimum pension for the population without access to a minimum income in 2008. More recently, efforts towards strengthening universality in social protection have been redoubled with the creation of a universal guaranteed pension (PGU) in 2022.

In terms of its political system, Chile is currently a democratic republic, under a presidential regime. Its government is headed by the President of the Republic, elected by public and direct vote, whose term of office lasts four years, without the possibility of immediate re-election. The legislative function is carried out by a bicameral National Congress, composed of a 155-member Chamber of Deputies and a 50-member Senate, all elected by direct public vote. Judicial adjudication is entrusted to the Judiciary, an autonomous, independent body made up of judges appointed by the President of the Republic with the Senate's approval. It is worth noting that judicial adjudication is also exercised by other courts outside the judiciary, such as the Constitutional Court, which is responsible for controlling the constitutionality of laws and other regulations.

According to the last population and housing census conducted in 2017, the population censused totalled 17,574,003 people, of which 8,601,989 (48.9%) were men and 8,972,014 (51.1%) were women. Based on these figures, the national population is currently estimated at 19,762,790 people. Over the decade 2011-2021, the annual birth rate in number of live births per 1,000 inhabitants fell from 14.11 to 11.79 per cent, while the total fertility rate per woman fell from 1.82 to 1.54, well below the replacement rate of 2.1 children on average (INE 2020, 13). Chile is therefore in an advanced stage of population aging. Current projections suggest that this phenomenon will become more pronounced over time, reaching 176 individuals aged 65 or older for every 100 under 15 years of age by 2050. According to figures from the 2021 National Employment Survey, approximately 500,000 people over 65 continue to work, concentrated mainly in the commerce sector; agriculture, livestock, forestry, and fishing; manufacturing industry; and construction. The labour insertion of this group is driven by the need to generate a higher income; its situation thus tends to be more precarious than that of the rest of the population.

The labour force participation rate has risen over the last 30 years, with 60.1% of those aged 15 and over participating in the labour market in 2022, compared to 52.8% in 1990 (World Bank 2023c). Female labour force participation has in principle developed favourably, from 31.8% in 1990 to 50.1% in 2022 (World Bank 2023b). However, significant gender gaps remain in wages, labour participation and job-to-job transitions. The unemployment rate has averaged 8.1% over the last three decades, fluctuating between a high of 11.3% in 2009 and

a low of 4.3% in 1992 (World Bank 2023e). Over time, informal employment has remained relatively stable and has tended to hover around 27% since 2015, except for the pandemic period, when it fell to 23.3% in 2020 (Ministerio de Hacienda 2022). Finally, self-employment has exhibited a slight downward trend, falling from 31.3% in 1991 to 27% in 2022 (World Bank 2023d).

In recent decades, the country has experienced a significant and steady reduction in income poverty, from 68.5 percent in 1990 to 6.5 percent in 2022, according to the latest National Socioeconomic Characterization Survey (*Encuesta de Caracterización Socioeconómica Nacional – CASEN*) (MDSF 2023) and has achieved a significant increase in the Human Development Index (UNDP 2023). From this standpoint, Chile exhibits a poverty rate similar to that of high-income countries (UNDP 2022) and has managed to effectively improve the population's welfare indicators. Among the factors that have led to these results are the growth of the economy and the increase in social spending. Notwithstanding these advances, the country is characterised by high income disparity. Although the country's Gini coefficient has declined progressively in recent decades, falling from 57.2 percent in 1990 to 44.9 percent in 2022 (World Bank 2023a), there are still challenges ahead.

Over the last 30 years, social spending on health, education, housing and social protection has registered a considerable and sustained increase, going from 11.8% of total public spending, equivalent to 20.99% of GDP, in 1990 to 19.9% of total public spending, equivalent to 33.48% of GDP, in 2021, representing a real annual average growth rate of 7.8% (Datosmacro.com 2023). In fact, the year 2022 was one of the few periods in which this expenditure was reduced to 15.39% of total public spending, equivalent to 26.56% of GDP, with the sole objective of recovering the fiscal and macroeconomic balances that had been altered as a result of the pandemic. These figures are above the average of 21% by 2022 for OECD countries (OECD 2023) and well above the Latin American average. Paradoxically, this significant quantitative increase in social spending is in open contradiction with citizens' poor perceptions about the qualitative improvement of public services.

3. CONSTITUTIONAL FRAMEWORK

One of Pinochet's goals was to lay the foundations of a neoliberal political and economic model, which reduced the role of the State and stimulated the private provision of social rights under a market regime. This model led to 'a privatised and highly criticised pension system, segmented education, and healthcare, with lower-quality public services for the majority and expensive private [services] for the well-off' (Somma, Bargsted, Disi & Medel 2020, 496). To ensure the continuity of his legacy, in 1980, Pinochet imposed a constitution that comprised several institutional and political arrangements aimed at diminishing the scope for democratic deliberation and preventing, or at least making considerably more difficult, structural reforms

in the field of social protection (Atria 2013; Heiss 2017). The then new Constitution also entailed some setbacks in terms of the enshrinement of social rights and the legal standards for their provision.

An example is Article 19 N° 18 of the Constitution on the right to social security:

The Constitution guarantees to all persons:

18.- The right to social security.

The laws governing the exercise of this right shall be of qualified quorum.

State action will be directed to guaranteeing access of all inhabitants to uniform basic benefits, whether they are granted through public or private institutions. The law may establish compulsory contributions.

The State shall supervise the proper exercise of the right to social security.

From a historical perspective, the wording of this article deviates radically from the previous constitutional regulation of the right to social security. Illustratively, Article 10 N° 14 of the 1925 Constitution – the predecessor of the 1980 Constitution – granted social welfare protection to all inhabitants of the Republic, especially regarding healthy housing and economic conditions of life. This norm also established that the law would set up a system to provide ‘each inhabitant with a minimum of well-being, adequate to the satisfaction of their personal needs and those of their family.’ However, Article 1 N° 21 of the Constitutional Act 3 of 1976 – an official draft version of the 1980 Constitution – just obliged the State to develop a national social security policy, monitor the functioning of this system and guarantee the preferential rights of affiliates to conduct its operation. The Act also declared:

[t]he law will establish a social security system that satisfies in a uniform, solidary and sufficient way the states of individual and family need produced by any contingency and, especially, by those of maternity, old age, death, accident, illness, disability, family charges and unemployment, through the corresponding preventive, restorative and recuperative benefits.

Against this backdrop, scholarly literature questions the fact that the 1980 Constitution allows for the private provision of social security benefits without mentioning any standards for such provision, such as universality, equality or sufficiency. In addition, the Constitution does not provide any guidance for social security policy on risk or contingency coverage, level of benefits, and social security system governance or financing. More generally, the basic statements contained in the Constitution are called into question, as they depict a weak constitutional commitment to social security, in comparison with other Latin American constitutional provisions that include detailed policy instructions for the provision of the right to social security (Ben-Bassat & Dahan 2016). Moreover, the Constitution does not explicitly

impose a duty on the State to realise the right to social security. Instead, it limits the State's role to simply supervising the proper exercise of the right to social security.

Adopting a much less critical stance, the Chilean Constitutional Court stated that social security is 'the set of principles that recognize the right of every human being to the indispensable goods for the prevention of social contingencies and for covering their effects, and that regulate the institutions required for this purpose.' Furthermore, the Court identifies several guiding principles of social security: universality (subjective and objective); integrity or sufficiency; solidarity; equality; and unity or uniformity. The Court deems it irrelevant that these guiding principles are not mentioned in the text of Article 19, Nº 18, insofar as they constitute the very essence of the right to social security (TC 790-07-INA, par. 33; TC 1287-08-INA, pars. 25 and 30; TC 2025-11-CPT, par. 41, TC 2275-12-INA, par. 4; TC 3227-16-INA, par. 33.).

The Court has also stated that 'guaranteeing' involves a State mandate to take an active role, namely, to do everything that is necessary to ensure access to the right at issue. 'Access,' in turn, requires people to be allowed to join or approach a benefit system, with or without compulsory contributions. Access must be guaranteed without discrimination, since the constitutional mandate is for 'all inhabitants' to be able to participate: the principle of subjective universality of social security is thus enshrined (TC 1572-19-INA, par. 56; TC 1598-10-INA, par. 53; TC 1629-10-INA, pars. 53 and 56). On the other hand, the right to social security entails the coverage of states of need through certain benefits or services, financed by equivalent contributions, whose nature or amount, as the case may be, are matters that can only be regulated by law.¹ In other words, the recognition of this right does not imply ensure unrestricted access to an unlimited universe of benefits, but rather that the provision of benefits must be supported by a legally, equitably and proportionally established source of funding. Therefore, social rights such as the right to social security aim to guarantee minimum benefits, directly correlated to the level of economic development of the country and to the political decisions expressed in infra-constitutional norms (TC 12-1982-CPR; TC 2337-12-INA; TC 7585-19-INA).

Another sign of the weakening of social rights in the Constitution can be seen in the way in which the right to health is enshrined. Pursuant to Article 19 of the Constitution:

The Constitution guarantees to all persons:

16. The right to the protection of health.

¹ Pursuant to Article 63 of the Constitution, 'Only the following are matters of law: (4) Basic matters relating to the labour, union, social security and social security legal regime'.

The State protects the free and equal access to actions for the promotion, protection and recovery of health and for the rehabilitation of the individual.

It will also be responsible for the coordination and control of the health-related actions.

It is a preferential duty of the State to ensure the implementation of health-related actions, whether provided through public or private institutions, in the form and conditions prescribed by law, which may establish compulsory contributions.

Every person shall have the right to choose the health care system that she wishes to join, either State-owned or private.

The 1925 Constitution was much more succinct in regulating this matter, merely recognizing that ‘it is the duty of the State to ensure the public health and hygienic well-being of the country’ and that ‘a sufficient amount of money shall be allocated each year to maintain a national health service.’ In this respect, one of the main innovations of the 1980 Constitution consisted in introducing the right to choose between the public and private healthcare system. In practice, this innovation entailed adopting a market-based approach to health services, insofar as the ‘ontological priority of Article 19.9 is placed, to put it in a commercial language, on the demand rather than on the supply’ (Arenas 2021). More worrying, emphasising freedom of demand and choice, without at the same time establishing public standards of provision, paves the way for conditioning access to health services on each individual's ability to pay, thus favouring private profit over the effective exercise of the right (Jordán 2013; Salgado 2015).

The language used in Article 19 N° 9 – ‘preferential’, ‘provided through public or private institutions,’ ‘either State-owned or private’ – is also consistent with the so-called principle of subsidiarity, which underlies the Constitution, even though it is not expressly enshrined in it. According to this principle, State action should be strictly limited to situations in which private parties are unwilling or unable to intervene. In support of this view, it is worth pointing out that in the commission in charge of drafting the 1980 Constitution, the possibility of using the expression ‘necessary’ instead of ‘preferential’ was initially discussed. On this issue, one of the main drafters of the Constitution objected that ‘necessary’ conveys the idea of a purely State-run system, while ‘preferential’ ‘involves a value judgement which, precisely, tends to hold that the State will take action as long as there is no effective action by private individuals to carry it out’ (BCN 2020, 51).

Once again, the Constitutional Court has taken a less critical or more neutral stance with respect to this right, merely acknowledging that just like the right to social security, the right to health protection has a welfare dimension and involves active conduct on the part of both State bodies and individuals in order to realize it in practice (TC 976-2007, par. 29; TC 1287-2008, par. 23). Furthermore, the Court has also held that the right to health, as a social right, is substantially linked to other fundamental rights enshrined in the Constitution, such as the

right to life and to physical and psychological integrity, as well as the right to social security, all of which must be protected and promoted to give legitimacy to the system (TC 976-2007, par. 32; TC 1287-2008, par. 32).

Finally, it should be noted that as a matter of principle, social rights are not justiciable or directly enforceable in Chile. Article 20 of the Constitution establishes a writ for the protection (*recurso de protección*) of fundamental rights, but explicitly excludes the right to health, education and social security from its purview.² Nevertheless, in practice, national courts have developed a number of strategies to extend the scope of protection by subsuming the infringed social right under one of those covered by the action, such as the right to equality and non-discrimination or the right to property. As a result, writs of protection have been successfully filed against ISAPREs for the increase in the base price of healthcare plans,³ and mostly unsuccessfully by affiliates to the individual capitalisation system against AFPs, for the withdrawal of their pension funds as a cash amount, alleging their property over them, the economic hardships they are going through and the amount of self-funded pensions they receive or would presumably receive (CS 29.236-2019; CS 33.436-2020).

Leaving aside the writ of protection, another possible avenue for the protection of fundamental rights may be a constitutional review before the Constitutional Court. The Court holds broad powers to review the constitutionality of laws and other types of norms, both preventively and repressively, and on both an abstract and concrete level. These different forms of review are not directly aimed at protecting fundamental rights and often focus predominantly on formal rather than substantive aspects. In fact, standing to request a decision is restricted, either to State bodies (in the case of abstract preventive review), to the parties to a pending legal action in which a legal provision that could result in unconstitutional effects is applicable, or to the judge hearing the action (in the case of concrete repressive review). In exercising its powers, the Constitutional Court has ruled, among other issues, on the constitutionality of constitutional reforms that have exceptionally allowed for each contributor to withdraw 10% of their pension savings (TC 9797-20-CPT; TC 10774-21-CPT); legal provisions authorising ISAPREs to increase the cost of individual health plans progressively and regularly, according to a table of factors (TC 976-07-INA; TC 1218-08-INA; TC 1273-08-INA; TC 1287-08-INA; TC 1710-10-INC); and, in general, regulatory modifications to pre-existing social security benefits (TC 334-01-CPT).

The set of features of the Chilean Constitution described in this section explains the slow pace at which urgent changes to the health and pension system (such as universal access to certain health benefits or the creation of a solidarity-based pension pillar) have been implemented since returning to democracy. It also explains why in recent years the public debate has

² Notably, the freedom to enrol in one system or the other is the only aspect of the right to health that can be brought before a court, pursuant to Article 20 of the Constitution.

³ Between 2013 and 2022, more than two million writs of protection were filed against ISAPREs.

revolved around the need to enact a new constitution, which strengthens social rights and democratic participation.

Alongside the fundamental rights outlined above, the Constitution enshrines certain principles that can guide the social security system. For example, Article 1 paragraph 1 stipulates that ‘all persons are born free and equal in dignity and rights,’ while paragraph 2 provides that ‘the family is the fundamental core of society.’ In the same vein, Article 1, paragraph 4, states that ‘the State is at the service of the human person and its purpose is to promote the common good.’ To achieve this end, the State ‘must contribute to the creation of social conditions which will enable each and every member of the national community to achieve the greatest possible spiritual and material fulfilment, with full respect for the rights and guarantees established by this Constitution.’ Furthermore, Article 1 paragraph 5 adds that ‘It is the duty of the State to [...] provide protection to the population and the family, to tend to the strengthening of the latter, to promote the harmonious integration of all sectors of the Nation and to ensure the right of persons to participate with equal opportunities in national life.’

However, these provisions contain principles expressed in such abstract and general terms that it is not possible to draw from them a precise guideline on how to design social security systems or their minimum benefit levels. Meanwhile, neither the case law of the Constitutional Court nor that of the ordinary courts of justice has contributed to specifying the possible implications of these provisions for national social security regulation.

4. INTERNATIONAL LAW FRAMEWORK

In terms of the international legal framework, Chile has ratified a number of instruments that enshrine the right to social security, such as the Universal Declaration of Human Rights (Article 22), the American Declaration of the Rights and Duties of Man (Article 26) and the International Covenant on Economic, Social and Cultural Rights (Article 9). Some of these instruments also recognise the right to a standard of living that ensures health, welfare, medical care, necessary social services, access to insurance in the event of unemployment, sickness, disability, widowhood, old age and other cases of loss or decrease in income, as can be seen in the Declaration (Article 25) and the Covenant (Articles 10, 11 and 12). This point is significant because, according to Article 5(2) of the Constitution, ‘the exercise of sovereignty recognises as a limitation the respect for the essential rights which flow from human nature.’ The same provision adds that ‘it is the duty of the organs of the State to respect and promote such rights, which are guaranteed by this Constitution, as well as by the international treaties ratified by Chile and which are in force.’

On the other hand, Chile has been a member of the ILO since 1919 and has ratified 63 of its conventions, of which 49 are in force. Among them, only two are directly related to social

security: the Employment Injury Benefits Convention, 1964 (No. 121) and the Minimum Wage Fixing Convention, 1970 (No. 131). In addition, Chile has developed other initiatives in conjunction with the ILO. For example, in 2008, through the Ministry of Labour and Social Security, the United Workers' Federation (*Central Unitaria de Trabajadores*), the Production and Trade Confederation (*Confederación de la Producción y del Comercio*) and the ILO agreed to implement the National Decent Work Programme. This programme aims to develop a set of policies and actions in the socio-labour field, particularly in the areas of occupational safety and health, and education and training in matters related to pension reform.

Apart from these instruments, Chile currently holds bilateral social security agreements with the following countries:

- Argentina (DS 164 of the Ministry of Foreign Affairs, 31 December 2009)
- Australia (DS 82 of the Ministry of Foreign Affairs, 28 May 2004)
- Austria (DS 1.555 of the Ministry of Foreign Affairs, 17 December 1999)
- Belgium (DS 1.553 of the Ministry of Foreign Affairs, 26 November 1999)
- Brazil (DS 1.313 of the Ministry of Foreign Affairs, 19 February 1996)
- Canada (DS 311 of the Ministry of Foreign Affairs, 29 April 1998)
- Colombia (DS 193 of the Ministry of Foreign Affairs, 2 October 2008)
- Czechia (DS 285 of the Ministry of Foreign Affairs, 1 March 2004)
- Denmark (DS 1.036 of the Ministry of Foreign Affairs, 19 October 1995)
- Ecuador (DS 154 of the Ministry of Foreign Affairs, 01 August 2008)
- Finland (DS 204 of the Ministry of Foreign Affairs, 16 January 2008)
- France (DS 430 of the Ministry of Foreign Affairs, 8 September 2001)
- Germany (DS 1.378 of the Ministry of Foreign Affairs, 7 January 1994)
- Luxembourg (DS 612 of the Ministry of Foreign Affairs, 25 June 1999)
- The Netherlands (DS 69 of the Ministry of Foreign Affairs, 20 March 1997)
- Norway (DS 242 of the Ministry of Foreign Affairs, 06 May 1998)
- Paraguay (DS 43 of the Ministry of Foreign Affairs, 23 August 2013)

- Peru (DS 37 of the Ministry of Foreign Affairs, 29 April 2004)
- Portugal (DS 936 of the Ministry of Foreign Affairs, 19 July 2000)
- Quebec (DS 1.865 of the Ministry of Foreign Affairs, 29 January 2000)
- Republic of Korea (DS 184 of the Ministry of Foreign Affairs, 14 February 2017)
- Romania (DS 44 of the Ministry of Foreign Affairs, 20 June 2023)
- Spain (DS 262 of the Ministry of Foreign Affairs, 29 April 1998)
- Sweden (DS 1.369 of the Ministry of Foreign Affairs, 22 December 1995)
- Switzerland (DS 241 of the Ministry of Foreign Affairs, 27 April 1998)
- United Kingdom (DS 40 of the Ministry of Foreign Affairs, 18 June 2015)
- United States of America (DS 459 of the Ministry of Foreign Affairs, 01 December 2001)
- Uruguay (DS 1.421 of the Ministry of Foreign Affairs, 9 December 1999)
- Venezuela (DS 24 of the Ministry of Foreign Affairs, 16 April 2005)

These agreements allow persons who have worked in either country and contributed to the respective social security system to apply for old-age or disability pensions and, in the event of death, their relatives can apply for survivors' pensions. In addition, Chilean nationals who work temporarily in one of the countries with which one of these agreements has been concluded can choose not to contribute there and, instead, continue to do so in Chile. In most cases, pensioners covered by one of the above-mentioned conventions who reside in Chile can also access health benefits provided by the public healthcare system, except for pensioners from Germany, the Republic of Korea and the United Kingdom, as the respective conventions with their countries do not include health benefits. Each country will pay the corresponding social security and health benefits, according to the provisions and requirements established by its own legislation. The maximum period of posting and the possibility of requesting an extension may be different, depending on what is established in each Social Security Agreement.

In addition, Chile signed the Ibero-American Multilateral Agreement on Social Security (Supreme Decree 76 of the Ministry of Foreign Affairs, 18 November 2011). The Convention allows people who are in any of the signatory states for temporary work to continue contributing to the pension system of their country instead of the pension system of the country where they are working, and thus obtain old-age, invalidity or survivors' pensions. The agreement applies only to qualified workers, for a maximum period of posting of 12 months,

but dependent workers may request an extension for up to 12 additional months. To date, this convention has been ratified by Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Spain, Paraguay, Peru, Portugal, Uruguay, El Salvador and the Dominican Republic.

5. OLD-AGE, INVALIDITY AND SURVIVORS' PENSION SYSTEM

Chile has had a compulsory individual capitalisation system since 1980, which requires all workers to pay a percentage of their salary or income each month into a personal account with a pension fund administrator (AFP). Each affiliated worker pays a monthly pension contribution of 10% of his or her salary. The contributions are accumulated in an individual capitalisation account, which increases according to the contributions made by the worker and the profitability achieved with the investment of their funds. The money accumulated in the account is the property of each affiliated worker and functions as an independent asset of the AFP. At the end of active life, this capital is returned to the member or his survivors in the form of a pension to be determined at the time of retirement.

The individual capitalisation system replaced a traditional public pay-as-you-go system providing a defined benefit administered by the Social Welfare Institute (*Instituto de Previsión Social – IPS*), which is still being phased out as the number of beneficiaries declines and is expected to be closed by 2050.⁴ The switch was motivated by efficiency and fiscal concerns, as by 1980 the Chilean pension system was paying out more in benefits than it was receiving in contributions (Soto 2007). It was also motivated by a 'desire to reduce the role of the government in economic affairs' (Vial 1998, 7). As a capitalisation-based system, it strongly emphasises the concept of the worker's ownership of his or her savings and the close link between the efforts made during a working life and the benefits received.

Central to the reform of 1980 and to the privatisation of the pension system in Chile was the establishment of the *Administradoras de Fondos de Pensiones* (AFPs) or Pension Funds Managing Corporations as new economic actors. They are for-profit corporations with the function to administer the individual retirement accounts and to provide certain pension benefits. AFPs collect social security contributions, deposit them in each affiliate's individual account and invest them according to State regulations. They are supervised and licensed by the Superintendency of Pensions (*Superintendencia de Pensiones – SP*), an autonomous government agency created to protect social security rights and oversee the proper functioning of pension and unemployment insurance systems.

⁴ The IPS was created in 2008 to administer pre-AFP pension schemes, including the solidarity pension system, which had previously been administered by the former Social Security Normalisation Institute (*Instituto de Normalización Previsional – INP*).

From a financial point of view, the system is currently based on three pillars that operate in a coordinated and interrelated manner: a first contributory or mandatory pillar, a second voluntary pillar and a third non-contributory, publicly funded pillar, on which 90 per cent of the poorest people in Chile over the age of 65 have to rely. The main objective of these pillars is to generate savings that will allow workers to finance their retirement, while at the same time protecting members and their families in the event that they are unable to work.

While the system became a model for pension reform in Latin America, it also faced several policy challenges, including gender inequality, financial illiteracy, low rates of return for account holders and high administrative fees, among others (Pienknagura & Evans 2021: OECD 2021). One of the main problems has been related to the existence of ‘pension gaps’ resulting from caring responsibilities, high job turnover, periods of unemployment and periods of informal work, which results in many people not accumulating the necessary pension savings or accumulating very low amounts (Larragaña, Huepe & Rodríguez 2014, 1). In 2008, a reform introduced several measures aimed at promoting gender equality, increasing information and competition in the management of pension funds, and strengthening the financial instruments available. Although this reform has brought improvements, some of the system's shortcomings remain unresolved. Since 2022, this system has been supplemented by a Universal Guaranteed Pension provided by the State and financed through general taxes for workers who have not contributed to any AFP or whose pensions do not reach a minimum.

Besides the general pension system, there are two special social security systems: the National Defence Welfare Fund (CAPREDENA) for the Armed Forces, and the Police Welfare Directorate (DIPRECA) for the Public Order and Security Forces as well as prison authorities. Both CAPREDENA and DIPRECA have a simple pay-as-you-go financing system and provide benefits such as old-age and disability pensions and other cash and in-kind benefits (Cifuentes 2018, 14). In practice, the financing of these schemes through individual contributions does not cover the cost of the benefits provided to active and retired staff of the beneficiary institutions and their families, thus imposing a heavy fiscal burden on the state, estimated at around 1 per cent of the country's GDP (Cifuentes 2018, 18).

The existence and continuity of these two special pension schemes can be explained by historical and political reasons (CIEDESS 2017, 3). Indeed, the Chilean social security system developed in an inorganic and fragmented manner and was structured on the basis of the professional affiliation of the workers involved. In turn, the coverage and amount of the respective benefits depended on the capacity of political leverage of each group of workers, which explains the strong differences between each of the more than thirty existing systems in the 1970s. It was precisely the capability of certain groups to exert political pressure to create these privileged schemes in the first place that allowed them to remain in place over time, despite successive attempts to unify them. The political scenario changed radically with the 1973 military coup, in which the individually funded system was imposed as the mandatory and general pension system. However, the Armed Forces and the Forces of Order

were unwilling to assume the risks posed by the new system and continued to enjoy the defined benefits of a pay-as-you-go system, covertly from the rest of the population.⁵ After the return to democracy, the fierce corporate defence of the beneficiaries of CAPREDENA and DIPRECA has put the brakes on projects to reform these systems (Gálvez, Kremerman & Reyes 2023, 11).

5.1. Regulation

Regarding the legal regulation of the right to social security, in 1980, the dictatorship issued Decree-Law 3.500, enforcing a social security system relying on individual capitalisation (30 November 1980). Under this system, each affiliate has the property over an individual account where their social security contributions are deposited. These contributions are capitalised and earn the yield of the investments made by private entities (AFPs) with the resources from the individual accounts. Ultimately, the amount of each pension relates to the amount of savings, where a direct relationship between personal effort and the pension obtained exists.

Act 20.255 (17 March 2008) introduced major reforms to the individual accounts system, creating a series of benefits that made up the solidarity pillar of the system, including:

- a) a Basic Old-Age Solidarity Pension (*Pensión Básica Solidaria de Vejez* – PBS) to cover groups that previously had no right to a pension and that were in the most vulnerable 60% of the population aged 65 or over;
- b) a Solidarity Old-Age Pension Contribution (*Aporte Previsional Solidario de Vejez* – APSV), which provided access to a monthly state-funded cash benefit that increased the pensions received in the contributory system for those who met the legal requirements and who, until 31 July 2022, were pensioners or were being pensioned with a base pension of less than 573,079 CLP (648 EUR).⁶

This Act also included measures to improve benefits to a larger portion of the population, ensure more gender equity, encourage greater competition in the pension fund industry, improve the AFP's management of financial risk to increase the return on the workers' contributions, change the rules for financing survivors' and disability insurance, establish more opportunities for voluntary savings and improve financial literacy.

More recently, Act 21.419 (29 March 2022) created the Guaranteed Universal Pension (*Pensión Garantizada Universal* – PGU). This Act aims to improve the pensions of current and future pensioners by creating a publicly financed 'universal' benefit of a maximum amount of 185,000 CLP (209 EUR) for all adults over 65 who are not in the richest 10% of the population

⁵ This is clear from the so-called Secret Records (*Actas Secretas*), which are transcripts of the discussions that took place between the members of the military junta and the ministers a few weeks before the decision was taken to replace the general distribution system (Junta de Gobierno 1980, 170-174).

⁶ 885 Chilean Peso (CLP) equals approx. 1 EUR (as of 23 January 2023).

aged 65 or over. The PGU is a non-contributory pension that replaced the main benefits of the solidarity pillar – that is, the PBS and the APSV⁷ – and thus complements the individual capitalisation system which entailed considerable poverty risks for the elderly, as approximately 80% of AFP pensions were below the minimum wage⁸ (Gálvez & Kremerman 2023, 5). To access the PGU, the person is required:

- a) to have reached the age of 65;
- b) to not belong to the richest 10% of the population aged 65 or over;
- c) to provide proof of residence for at least 20 years, counted from the age of 20, and, in any case, for a period of not less than four years of residence in the last five years immediately prior to the date of submission of the application to receive the PGU;
- d) to have a base pension of less than 1,114,446 CLP (ca. 1,259 EUR, higher pension amount), as determined by the PGU's Self-Funded Benchmark Pension (*Pensión Autofinanciada de Referencia* – PAFE). The PAFE aims to establish a uniform calculation methodology for all individuals, irrespective of the effective pension age, the type of pension chosen and other particularities.

The PGU's effective amount depends on the value of a base pension. For these purposes, a base pension will be calculated for each beneficiary at retirement age, regardless of whether they retire. Accordingly, those with a monthly base pension lower than or equal to 702,101 CLP (ca. 793 EUR) will receive the maximum amount, 206,173 CLP (ca. 233 EUR). For beneficiaries with a base pension greater than 702,101 CLP but lower than 1,114,446 CLP (ca. 1,260 EUR), the amount will decrease progressively in a linear manner. The amounts are readjusted on 1 February of each year, according to the Consumer Price Index (*Índice de Precios al Consumidor* – IPC) variation.

5.2. Coverage

Affiliation with the AFP pension system is mandatory for all wage and salaried workers under 60 (if female) or 65 years of age (if male), regardless of nationality, the duration of the working relationship, the kind of contract or the kind of employer (private or public), as of 1 January 1983. For people over the mandatory affiliation age, affiliation is voluntary. Affiliation to the pension system is unique and permanent, so that it lasts for the entire life of the person, whether or not they remain active, whether they carry out one or more simultaneous or successive activities, or whether they change the institution that administers the system. The affiliation mechanism varies according to the type of worker concerned:

- a) New dependent workers are legally obliged to contribute to an AFP, which means that they are automatically enrolled in the system. The 2008 pension reform established that

⁷ From January 2022, the PMAS amount for people aged 65 and over was 573,079 CLP (ca. 577 EUR).

⁸ The Chilean minimum wage is 460,000 CLP (ca. 463 EUR) as of September 2023.

workers who start working for the first time will be assigned as members to the AFP that offers the lowest commission for depositing contributions in a two-year bidding process.

- b) Dependent workers who are contributing or have contributed in some of the regimes administered by the IPS or in other Pension Funds have the option, but not the obligation, of affiliating to the DL 3.500 pension system.
- c) In addition, any individual who does not carry out a remunerated activity can voluntarily join the DL 3.500 pension system.
- d) The 2008 pension reform made it compulsory for self-employed workers who issue invoices to join the pension system.

A person who is already a pensioner in the AFP system and who continues to work can still contribute. However, they have the option of exempting themselves from paying pension contributions. When this option is exercised, only the corresponding percentage of health contributions must be paid.

5.3. Benefits

The Chilean pension system provides the following benefits:

- a) Regular old-age pension (*pensión de vejez*): The normal retirement age is 65 years for men and 60 years for women. People are not required to stop working to claim a pension benefit. Individuals who do not claim an old-age pension when they reach the retirement age cannot receive an invalidity pension, except for women, until they turn 65. Only in the public sector does obtaining an old-age pension imply the termination of the labour relationship.

The retiree may choose among four options established by law: a) programmed withdrawal, b) lifetime annuity, c) programmed withdrawal with immediate lifetime annuity or d) temporary allowance with a deferred lifetime annuity.

- In case of a programmed withdrawal, the AFP continues to manage the pensioner's funds, and the pensioner receives an annual pension, paid in 12 monthly instalments. This option is revocable, and members can opt for some other type of pension associated with a life annuity at any time. If the pensioner dies without leaving survivors' pension beneficiaries, the existing balance in the individual account constitutes an inheritance. The pensions for programmed withdrawal are calculated, year by year, taking into account the balance of accumulated savings, the composition of the pensioner's family group – their ages, sex and marital status –, the pensioner's life expectancy and the quarterly interest rate determined for this purpose by the SP. For the projection of the pensioner's life expectancy, the SP and the Commission for the Financial Market (*Comisión para el Mercado Financiero* – CMF) prepare a mortality table that is updated every six years, which considers all ages where survival has been

recorded in the Chilean population. The current mortality table projects that women in their 60s will live on average to age 90, while men in their 65s will live on average to age 85. These are the average ages on which pensions are calculated at the legal retirement age.

- In an immediate lifetime annuity, there is a contract or policy between a life insurance company and the pensioner whereby the company agrees to pay the pensioner a fixed pension for life (expressed in UF and adjusted for inflation) in exchange for the payment of a premium financed with the savings accumulated in the pensioner's AFP. Annuities may only be bought by individuals who can finance a pension higher than a defined minimum level (which used to be the PBS). The beneficiary undertakes to transfer all or part of his/her pension funds to the insurance company of choice. The pension is paid from the moment the contract is signed until the death of the beneficiary. Once the beneficiary dies, a survivors' pension is maintained for their beneficiaries. This option is irrevocable because it would otherwise imply that ownership of the funds is lost in favour of the insurer. To calculate the amount of the life annuity, the life insurance company takes into account the following variables: the amount of money available in the individual capitalisation account in the AFP; the interest rate offered by the life insurance company; the life expectancy of the insured, calculated according to the mortality tables drawn up by the SP and the CMF, and the life expectancy of the beneficiaries of the survivors' pension.
 - In a programmed withdrawal with an immediate lifetime annuity, the capital is split to buy an immediate life annuity with an insurance company, and to take a programmed withdrawal for the remaining amount. The pension consists of the sum of the amounts received in each modality, whose determination is subject, in the relevant part, to the rules for the calculation of pensions in programmed withdrawal and life annuities. Only those affiliates who can obtain an immediate life annuity greater than or equal to the basic old-age solidarity pension can opt for it.
 - The temporary allowance combined with a deferred lifetime annuity is a mixture of the previous two. The affiliate contracts with a life insurance company the payment of a pension as of a defined future date, for which the affiliate transfers the amount of the agreed premium, retaining in the savings account sufficient funds to obtain a temporary income from the AFP during the entire period between the date on which the option for this modality is exercised and the date on which the life annuity begins to be paid. As in the previous case, the determination of the amount of the pension in this mode is subject, in the corresponding part, to the rules for the calculation of pensions in programmed withdrawal and life annuities.
- b) Early retirement (*Pensión Anticipada*) is possible at any age for affiliates with enough savings in their account to generate or finance a pension above a certain threshold. The pension benefit must be at least equal to 70% of the average taxable remuneration

received in the ten years prior to claiming the pension, unless the number of months without effective remuneration is greater than 16, in which case an adjustment is made. Additionally, the said pension must be at least equal to 80% of the maximum pension with solidarity contribution (PMAS) in force on the date the pension is received.

- c) Early retirement due to arduous work conditions (*Pensión Anticipada por trabajo pesado*): The normal retirement age is reduced by one or two years for each five years of work under arduous conditions in specific occupations. The maximum reduction of the regular retirement age is ten years.
- d) Invalidity pension (*Pensión de Invalidez*): Accessible for members of the IPS scheme or AFP scheme who have not reached retirement age and who suffer a permanent impairment in their ability to work due to a common (non-work-related) illness or accident.⁹ The invalidity must be attested by the respective Regional Medical Commission (*Comisión Médica Regional – CMR*) and may be total or partial. In the latter case, the invalidity is always considered temporary and is subject to reassessment within three years. There is a Central Medical Commission dependent on the SP before which the resolution of the CMR can be appealed.

There are two types of invalidity pensions: partial invalidity and total invalidity, depending on the degree of incapacity. The partial invalidity pension is granted when the worker has a presumed permanent incapacity, equal to or greater than 40% and less than 70%. Its amount is equal to 35% of the basic salary. On the other hand, the total disability pension is granted when a worker has a permanent incapacity equal to or greater than 70%. This pension is equivalent to 70% of the basic salary¹⁰. In addition to these two invalidity pensions, there is a supplement for severe invalidity (*gran invalidez*), equivalent to a 30% increase in the pension, for as long as the worker requires the assistance of third parties to carry out the basic activities of life. The amounts of invalidity pensions are increased by 5% for each child who is entitled to a family allowance, starting from the third authorised dependent child.¹¹ The amount of the pension will be decreased or increased each time the right to supplements is extinguished or arises.

- e) Survivors' pension (*Pensión de Sobrevivencia*): Members of the deceased affiliate's family group are entitled to it, whether they are contributors or pensioners. The surviving spouse, the civil partner, the children (whether of marital, non-marital or adoptive affiliation), the parents and the mother of the children of the deceased can be beneficiaries. In order to determine the amount of the survivors' pension, the following percentages are applied on the basis of the reference pension of the deceased:

⁹ Access conditions are the same for both schemes.

¹⁰ The basic salary corresponds to the average taxable remuneration, excluding allowances, for the last 6 months preceding the accident or diagnosis of illness.

¹¹ The pension amount must not exceed 50% of the basic salary in case of partial invalidity, 100% of basic salary in case of total invalidity, and 140% of basic salary in case of severe invalidity.

- 50% for the spouse with children in common and 60% if there are no children in common. The surviving spouse must have married the deceased at least six months before the date of his or her death, or three years before if the marriage took place when the deceased was an old-age or disability pensioner. These limitations do not apply if the spouse is pregnant or if there are joint children at the time of death.
 - 60% for the civil partner without children in common and no children only of the deceased, 50% if there are children in common (with or without children only of the deceased), and 15% if there are only children of the deceased and no children in common. The surviving civil partner must be single, widowed or divorced and have entered into a civil partnership agreement in force at the time of death of the deceased at least one year prior to the date of death, or three years if the civil partnership agreement was entered into while the deceased was an old-age or disability pensioner. Restrictions on the length of the civil partnership do not apply if the surviving civil partner is pregnant or if there are joint children at the time of death.
 - 36% for parents of non-marital non-pensionable children, 30% if there are pensionable children. The father or mother of the deceased's children born out of wedlock shall be entitled to a survivors' pension if, at the date of death, they are unmarried or widowed and living at the expense of the deceased.
 - 15% for eligible children who are not married and to whom the following characteristics apply: being under 18 years of age; being over 18 years of age and under 24 years of age, if they are students in regular basic, secondary, technical or higher education courses; or being disabled, whatever their age. This percentage is reduced to 11% for children declared partially disabled upon reaching the age of 24.
 - 50% for parents of the deceased who are recipients of family allowance, in the absence of the aforementioned persons.
- f) Funeral grant (*Cuota mortuaria*): An amount of 15 UF¹² (about 465 EUR in 2022) is withdrawn from the respective individual affiliate account. It is paid to whoever proves to have taken care of the funeral expenses of the deceased affiliate.

5.4. Financing

As noted in the introduction to this section (see above 5.1.), the system is structured into three pillars: a first compulsory contributory pillar, a second voluntary savings pillar and a third solidarity pillar.

The contributory pillar is made up of social security contributions. In the case of dependent workers, the employer must deduct 10% of the worker's gross taxable salary for social security

¹² *Unidad de Fomento* (UF) is a unit of account used in Chile, adjusted daily in line with inflation. One UF is equivalent to about 36 EUR (2023).

contributions, with a gross taxable salary cap of 81.6 UF per month¹³, plus a percentage corresponding to the AFP's commission¹⁴. These figures represent an anomaly compared to OECD countries with private schemes, where the average employer contribution rate was approximately 6.6% by 2021 (OECD 2021). They also deviate from ILO standards, under which workers should not be contributing more than half of the total of the financial resources allocated to their protection and the remaining part should be derived from general employer contributions or government revenues (ILO 2022).

The employer must also make an additional contribution at his own expense, equivalent to 1.88% of the gross taxable salary of his dependent workers, in order for them to have access to the benefits of the Invalidity and Survivors' Insurance (*Seguro de Invalidez y Sobrevivencia* – SIS). Early retirement is financed with an additional contribution (to increase the balance in less time) made by the worker and the employer, which amounts to 1% or 2% of the taxable remuneration respectively. It operates with respect to tasks or activities classified as arduous by the National Ergonomics Commission (*Comisión Ergonómica Nacional* – CEN). It should be noted that the overall contribution rate is extremely low in general, and so is the employer's rate.

Exceptionally, some affiliates are not required to pay mandatory contributions. Such is the case for those who have reached the retirement age (who may contribute voluntarily) and 60-year-old women who continue to work and refrain from applying for a pension until they reach 65 years of age.

Savings formed by contributions in individual accounts belong to the worker, not the State or the AFPs. However, as a general rule, workers are only allowed to withdraw from them when they reach the age of 65 (men) or, respectively, 60 (women). During the COVID-19 pandemic, members of the AFP system were exceptionally allowed, on three occasions, to withdraw 10% of their pension savings. Since then, some parliamentarians have tried to enable further withdrawals three more times, but the negative effects of this measure on the inflation rate and future pensions have frustrated such a possibility.

The second tier comprises voluntary contributions made by affiliates to increase their individual capitalisation account or by a company for all their workers to finance an anticipated pension or to be withdrawn as freely usable surpluses. There is no fixed amount or percentage of the worker's gross taxable salary for these contributions.

¹³ Corresponding to about 2,530 EUR in 2022.

¹⁴ Under DL 3.500, AFPs are authorised to charge a commission for their services in the administration of mandatory pension contributions, which are calculated and charged as a percentage of the taxable salary of each contributor. The Superintendency of Pensions (SP) regulates the maximum percentage that can be transferred to contributors, requiring that the differentials generated by commissions that exceed the established maximum be assumed by the AFPs.

Affiliates can allocate their mandatory and voluntary pension savings contributions in different funds, according to their risk profile: fund A (very risky), fund B (risky), fund C (intermediate), fund D (conservative) and fund E (very conservative). Affiliates have the freedom to determine the fund in which they will allocate their pension savings, but there are restrictions depending on the age. These restrictions are justified because the closer affiliates are to the legal retirement age, the less time their pension savings will have to recover if they have experienced fluctuations in profitability. Accordingly, current regulations establish that from the age of 56, in the case of men, and 51 in the case of women, pension savings can only be allocated in funds C, D and E. Voluntary contributions have no restrictions.

The solidarity pillar or pension floor corresponds to the PGU, which is financed through general taxation. This pillar amounted to 4,466,443 CLP (ca. 5,047 EUR), equivalent to 1.7% of GDP in 2022 and is estimated to reach 2% during 2023 (Asociación AFP Chile 2022).

5.5. Administration and Supervision

The Chilean pension system is a mixed regime, as both public and private institutions provide old-age, invalidity and survivors' pensions. Administration by private economic actors entails specific additional costs: AFPs are entitled to charge a monthly premium for survivors' and invalidity insurance and administrative fees (commissions) for their services, which are paid by the insured persons. The commissions are fixed freely by each AFP and are uniform for all affiliates. Among other obligations, AFPs must send their affiliates a report every four months, called *cartola cuatrimestral*, which contains relevant information, such as the accumulated amount and contributions paid.

The SP monitors and controls the Pension System, according to DL 3.500, and other provisions, such as regulations, circulars and associated norms that deal with different aspects such as investments, benefits, collections and contributions. This body is linked to the State through the Ministry of Labour and Social Welfare. In turn, the Superintendency of Securities and Insurance supervises the AFPs in their capacity as public limited companies. Other public entities observe other areas of the Pension System, such as the Central Bank of Chile, the Ministry of Finance, the Technical Investment Council, the Pension Advisory Council, the Risk Classification Commission and the Users Commission.

The State, in turn, administers and grants non-contributory and welfare pensions – such as the PGU – through the Institute of Public Health (*Instituto de Salud Pública* – ISP).

6. HEALTHCARE SYSTEM

The Chilean healthcare system is of a mixed nature. Cash benefits and medical benefits are provided through parallel public and private schemes. On the one hand, it consists of a public

universal social insurance from the National Health Fund (*Fondo Nacional de Salud* – FONASA), a public entity financed by mandatory contributions and government revenue. On the other hand, mandatory private insurance is available from private, profit-oriented Health Insurance providers (*Instituciones de Salud Previsional* – ISAPREs). By default, insured persons are enrolled in the public social insurance scheme, but they can choose to contract with an ISAPRE for their benefits. Besides, there are special health insurance schemes, such as those of the Armed Forces (CAPREDENA) and the Public Order and Security Forces (DIPRECA). FONASA offers coverage to more than 15 million beneficiaries, approximately 77% of the national population. ISAPREs in turn cover over 3 million beneficiaries, approximately 17% of the national population. These entities do not directly provide healthcare services and do not cover occupational health risks.

6.1. Regulation

The foundations of the current Chilean health system were laid during the dictatorship. DL 2.763 (3 August 1979) created the National Health Services System (*Sistema Nacional de Servicios de Salud* – SNSS), composed of the Health Services, the Public Health Institute (*Instituto de Salud Pública* – ISP), the Central Supply Centre (*Central de Abastecimiento* – CENABAST) and the National Health Fund (*Fondo Nacional de Salud* – FONASA). This Act entrusted FONASA with the task of collecting, administering and distributing health contributions, as well as financing, in whole or in part, health benefits, whether provided by public or private providers. This Act also established that individuals, institutions and other private entities would enjoy free initiative to carry out health actions, in the manner and under the conditions determined by law, as well as to join the system, signing the corresponding agreements with the bodies that comprise it.

One year later, DFL 3 (19 March 1981) created ISAPREs, which captured the demand for health insurance from higher-income sectors. These institutions replaced the former Health Services and the National Health Fund in the provision of health benefits, while the latter was relegated to a supervisory role. Under this DFL, ISAPREs had to apply for registration with FONASA, which qualified the application by accepting or rejecting it, according to the legal requirements. FONASA was also in charge of ensuring that the ISAPREs had to prove and maintain a minimum capital of 2,000 UF, which had to be completed at the time of submitting the application for registration. In addition, the ISAPREs had to maintain a guarantee equivalent to one month of contributions received, which should not be less than 600 UF. If these requirements were not met, the FONASA was empowered to close the ISAPRE's registration.

Act 18.469 (23 November 1985) established the last cornerstone of the then new Chilean health system, regulating the exercise of the constitutional right to health protection and creating the health benefits system. This Act established the characteristics of the current health financing, welfare and health care model, highlighting the freedom to opt for public or private alternatives in health welfare and health care, and contribution proportional to

income in the public system. With the latter reform, a health care system based on free choice was constitutionalised, without subjecting it to standards that would prevent market abuses or income segregation.

Two days before the end of the dictatorship, Act 18.933 (9 March 1990) created the Superintendency of ISAPREs, whose main functions were to safeguard compliance with the obligations of the law and the health contracts imposed by these institutions, to promote solutions to market imperfections and to guarantee the long-term stability of the system. With this reform, the Superintendency took over the functions that FONASA had previously performed in the supervision of ISAPREs, thus consolidating a marked divide between the public and private health systems. Almost fifteen years later, the Superintendency of ISAPREs was replaced for the Superintendency of Health, by Act 19.937 (24 February 2004), in charge of overseeing and controlling ISAPREs and FONASA, as well as the supervision of public and private healthcare services providers.

After returning to democracy in the 1990s, several structural legal reforms seeking to strengthen the state's role in the provision and supervision of healthcare services, reinforce solidarity within the health insurance system and decrease out-of-pocket expending were implemented. One of the most important reforms was enacted through Act 19.966 (3 September 2004), which established a General Regime of Health Guarantees including promotional, preventive, curative, rehabilitative and palliative services, and a Universal Access to Explicit Guarantees Plan (*Plan de Acceso Universal a Garantías Explícitas – AUGE*), also known as the General Regime of Explicit Health Guarantees (*Régimen General de Garantías Explícitas en Salud – GES*). As a result, patient care is ensured from screening, suspicion or diagnostic confirmation, to treatment, and subsequent follow-up or rehabilitation, stages that depend on each health problem. Currently, there are 87 pathologies included in the AUGE/GES, grouped into respiratory diseases, surgical interventions, diseases of the elderly, chronic diseases and others, oral health, heart and cerebrovascular diseases, cancer treatment, premature birth and diseases of newborns, children, mental health, eye diseases and complex and serious diseases.

In addition, Act 19.337 (1 January 2005) created the Superintendency of Health, the successor of the former Superintendence of ISAPREs, with the aim of providing some uniformity to the dual health system. The Superintendency of Health includes in its structure the Intendancy of Health Funds and Insurance, in charge of overseeing ISAPREs, FONASA and the Health Guarantees Regime, and the Intendancy of Health Providers, in charge of overseeing all health providers, public and private, in the delivery of benefits to the beneficiaries of laws N° 18.469 and N° 18.933. Act 20.584 (24 April 2012) recognised a series of specific rights and duties of health services users, including the right to dignified treatment, spiritual care and informed consent, among others. The provisions of this Act apply to any type of health care provider, whether public or private, as well as to other professionals and workers who, for whatever reason, must attend to the public or are involved in the provision of health care. Lastly, Act

20.850 (1 June 2015) created a financial protection system for high-cost diagnoses and treatments, that is health-related services whose costs prevent access or have a catastrophic impact on the beneficiary's budget. This Act provides financial protection for specific health conditions, such as oncological, immunological and rare or infrequent diseases, which have been determined through a Supreme Decree of the Ministry of Health. It grants financial protection to all users of the social security health systems: FONASA, CAPREDENA, DIPRECA and ISAPREs, regardless of their socio-economic situation.

Despite these progresses, surveys carried out by the Health Superintendency consistently show health system user dissatisfaction, both in FONASA and in ISAPREs (Superintendencia de Salud 2017). This dissatisfaction relates to various matters, from the costs for accessing health benefits among ISAPRE beneficiaries to the mistreatment of FONASA beneficiaries by health personnel. According to these surveys, almost half of the Chilean population does not feel confident that the system will provide effective treatment in the event of a serious illness. Furthermore, the percentage of people who feel unprotected is substantially higher among ISAPRE beneficiaries than FONASA beneficiaries. Likewise, 40% of FONASA beneficiaries assume that they could not pay for treatments in case of serious illness, a percentage that is even higher among ISAPRE beneficiaries. A substantial majority (over 70% of people surveyed) believe that the system needs to be 'completely rebuilt' and/or that 'fundamental changes' are needed.

6.2. Coverage

Any person residing in Chile can affiliate with FONASA, regardless of age, sex, gender, income, number of dependants, pre-existing diseases or conditions, or nationality. FONASA has two kinds of beneficiaries: contributory and non-contributory. Contributory beneficiaries include salaried and wage workers, self-employed workers and pensioners. Persons without earnings, social assistance beneficiaries, pregnant women, and mothers up to six months after childbirth are covered as non-contributory beneficiaries. Coverage of the public scheme without any contribution extends to those who earn less than the minimum wage, comprising the poor, the homeless, and individuals who cannot find a job after having received an unemployment subsidy or having exhausted their unemployment insurance. For the socio-demographic and socio-economic characterisation of the insured population, and the determination of the co-payment to be made, FONASA beneficiaries are categorised into four segments: A, B, C and D.¹⁵

¹⁵ Segment A includes people who lack resources, migrants and dependants of beneficiaries of the family subsidy (see section 5.3 of this paper), who have a 100% discount on healthcare in the public health network. Segment B includes people who receive a taxable monthly income of up to 400,000 CLP (ca. 452 EUR). Segment C includes people who receive a taxable monthly income higher than 400,000 CLP and less than or equal to 584,000 CLP (ca. 660 EUR). Segment D includes people with a taxable monthly income higher than 584,000 CLP. Beneficiaries in segments B, C, and D have a 100% discount on healthcare in the public health network and access to purchasing vouchers from private health providers that have signed an agreement with FONASA. Originally, the difference

ISAPREs have three kinds of beneficiaries. The first kind are the insurees, who sign a health plan with the ISAPREs and finance their coverage through contributions. Whilst most ISAPREs are open and anyone can apply and become an affiliate, some ISAPREs are closed and only provide coverage for the workers of a specific company or groups of companies and their family members. The second kind of beneficiaries are the dependent family members of the insured in the public as in the private healthcare system. Dependent family members include:

- a) the insuree's spouse;
- b) the insuree's children or stepchildren up to 18 years of age;
- c) the insuree's children of any age if they are disabled;
- d) the insuree's children up to 24 years of age, single, who study at institutions of the State or recognised by the State;
- e) the insuree's grandchildren or great-grandchildren, (half-)orphans or children abandoned by their parents, up to the ages referred above;
- f) the insuree's widowed mother;
- g) the insuree's ascendants over 65 years of age or disabled of any age;
- h) orphaned or abandoned children and disabled children who are under the care of State institutions or State-recognised institutions in charge of raising and providing for orphaned or abandoned children and persons with disabilities;
- i) minors up to 18 years of age, or of any age if they are disabled, and those over 18 and up to 24 years of age, single, studying at State institutions or State-recognised institutions, whose care has been entrusted to the beneficiary via a court-ordered protection measure.

The third kind of beneficiaries are the insuree's *medical burdens*, meaning people who are not recognised as dependants but are sustained by the insuree without the latter having a legal obligation to do so. While ISAPREs are required by law to provide benefits to persons recognised as dependants of the insured person, acceptance of coverage for people not legally dependent on the insuree is conditional upon evaluation on the part of the ISAPREs.

6.3. Benefits

Health benefits provided by FONASA are defined by law as universal, comprehensive, collectively funded and equitable. These benefits cover health promotion, prevention, cure and rehabilitation services, and palliative care in the event of terminal illness. FONASA's general plan includes medical care, such as consultations, examinations, diagnostic

between these segments was in the amount of the co-payment beneficiaries had to pay for healthcare services in the public network. As of September 2022, the distinction between segments B, C and D ceased to have any practical impact but remains. The co-payment FONASA affiliates must pay for private health provider services does not depend on their segment but on each provider's fees.

procedures, surgical procedures, hospitalisation, obstetric care, treatments, supplies, including medicines from the National List of Medicinal Products and other benefits required for the treatment of illnesses affecting its insureds or persons within their family group. It also includes preventive screening, which is a periodic plan to monitor and evaluate a preventable or controllable health problem, disease or condition of high morbidity (occurrence) in order to reduce or delay it through prevention or early detection.

The following special programmes and benefits are added to the general FONASA plan:

- a) financial coverage for all medical care and interventions;
- b) access to care in the public or private network;
- c) AUGE/GES programme;
- d) immediate medical care in the nearest emergency service, whether public or private, in the event of a life-threatening emergency or serious functional sequelae. The objective of this programme was to put an end to the widespread practice of health establishments that conditioned medical attention on the signing of a guarantee document, promissory note, money, cheque or some other financial payment instrument, even in urgent cases. Upon admission through the *Acta de Urgencia*, FONASA covers all necessary care for the stabilisation of the patient, paying directly to the hospital or clinic. Once stabilised, the patient must return part of the payment to FONASA;
- e) financial protection for diagnosis and/or treatment of high-cost diseases, whether oncological, immunological or rare, that have a catastrophic impact on the family budget and have been previously determined by the Ministry of Health. This programme benefits all people insured by FONASA, regardless of their level of income, and their dependants. It covers the diagnosis of the disease and its treatment (drugs, medical devices and high-cost nutrition with proven effectiveness).
- f) the PAD Voucher (*Bono Pago Asociado a Diagnóstico*), which is a benefit that helps people insured by FONASA and their dependants to access different packages of health benefits and care by paying a fixed and known price for different surgical interventions or procedures defined by decree. Each package includes surgery, bed days, medicines, examinations, all the necessary supplies for the intervention or procedure in question, post-operative controls for up to 15 days after discharge, treatment of iatrogenic injuries and, depending on the type of pathology, treatment of the most frequent complications. PAD voucher care is provided only in private health establishments that have agreements with FONASA (MLE).

Apart from financial coverage, FONASA offers different types of cash benefits.

Firstly, FONASA is also empowered to grant loans to its insurees belonging to segments B, C and D to finance all or part of the value of the medical benefits they receive outside the public health system. When the medical loan is approved, the insuree does not receive the money, as FONASA pays the entire medical bill to the health care provider and generates the loan instalment. The loan is paid back in monthly instalments, which cannot exceed 10% of the insuree's income. In the case of emergency medical care, the monthly payment may not exceed 5% of the insuree's income. To access these loans, the insuree must be up to date in the payment of contributions and have a certain number of co-signers whose income cannot be less than 25% of the insuree's income. Both the insurees and their co-signers must have settled previous FONASA loans, if any. Specific requirements vary according to the type of insuree:

- a) Dependent or shift workers must present a certificate of six months of contributions, whether continuous or discontinuous within the last 12 months, and two co-signers.
- b) Self-employed workers must present a certificate of contributions for the last 12 months and two co-signers.
- c) Pensioners must present their last pension statement and only one co-signer.

In addition, FONASA grants a sickness benefit for work invalidity (*Subsidio por incapacidad laboral* – SIL) for affiliates who make use of medical leave and meet minimum affiliation and contribution requirements to substitute the salary or income during their leave.¹⁶ No minimum qualifying period is needed for an invalidity resulting from an accident. To obtain the subsidy, dependent workers must have authorised medical leave, a valid work contract and six months' affiliation to a social security system (AFP or INP/IPS), and three continuous or discontinuous months of social security and health contributions prior to the start of the leave. On the other hand, self-employed workers must have authorised medical leave, prove that they are self-employed, have 12 months of affiliation to FONASA, have six continuous or discontinuous months of health contributions prior to the start of the leave and be up to date in the payment of their contributions. Finally, daily, shift or day workers must have authorised medical leave, an employment contract in force, six months of continuous affiliation to a social security system (AFP or IPS) and one month (30 days) of social security and health contributions within the 6 months prior to the start of the leave.

The amount of this subsidy is calculated according to the number of days for which the medical leave was authorised, and on the basis of the contributions paid by the beneficiary. This

¹⁶ Employees must register at least six months of contributions, including at least three months in the last six months; contract workers, at least six months of contributions, including at least 30 days in the last six months; and self-employed persons, at least 12 months of coverage with at least six months of paid contributions in the last 12 months. For medical benefits there is no minimum qualifying period.

amount may not exceed the annual taxable ceiling, and legal contributions are deducted from the net payable sum.

- a) For private sector employees, the cash benefit amount is equivalent to the insuree's average income of the last three months (within the last six months).
- b) For public sector employees, the cash benefit equals the insuree's average monthly earnings before the incapacity began.
- c) For self-employed persons, the cash benefit equals 100% of the insuree's annual covered income divided by 12 (if mandatorily covered) or 100% of the insuree's average monthly declared income in the last six months (if voluntarily insured).

Medical leave is paid through the Preventive Medicine and Invalidity Commission (*Comisión de Medicina Preventiva e Invalidez* – COMPIN) or through Family Allowance Compensation Funds (*Cajas de Compensación de Asignación Familiar* – CCAFs)¹⁷ for beneficiaries who work in companies affiliated with these Funds. In 2020, 19% of expenditure for sickness and maternity leave benefits was paid through the COMPIN, while 81% was paid through CCAFs.

Lastly, FONASA offers financial support in the payment of hospital bills in the public network, totally or partially reducing the debts of its beneficiaries. This benefit only applied to services obtained by insured persons belonging to FONASA brackets C and D until 1 September 2022, since after that date, all persons belonging to FONASA, regardless of their bracket, are to receive free care in the public health system. This benefit is provided after a socio-economic evaluation of the applicant member, which is carried out by FONASA.

Medical benefits in the private insurance schemes (ISAPREs) are determined by each insuree's individual health plan. However, there are mandatory cash sickness and maternity benefits to be granted under the same conditions as with the public scheme, as well as mandatory minimum medical benefits that include: GES benefits¹⁸, preventive medicine exam (free of charge for beneficiaries), women's care during pregnancy and up to the sixth month of life of the child (free of charge for beneficiaries), care of newborn children and children of up to six

¹⁷ Family Allowance Compensation Funds (CCAFs) are private, non-profit corporations created by employers and subject to the control of SUSESO. They also administer other schemes, such as the unemployment benefit (currently being phased out), collect part of the health contributions of their affiliates (0.6%) and pay disability benefits to the extent that they are not incorporated into an ISAPRE and remain in FONASA (which provides the supplement required to pay the benefit for incapacity to work (*Subsidio por Incapacidad Laboral* - SIL). CCAFs also grant additional complementary benefits and loans to their affiliates. Retired older adults can freely join a CCAF, paying a monthly fee to access the benefits of these entities. Likewise, self-employed workers affiliated with AFPs or beneficiaries of DIPRECA or CAPREDENA can join.

¹⁸ Unlike FONASA affiliates, who finance GES benefits from 7% of their taxable income, ISAPRE affiliates must pay a price for them. The price defined by the ISAPRE for the GES and the unit in which it is agreed (*pesos* or *Unidades de Fomento*) must be the same for all its beneficiaries.

years of age (free of charge for beneficiaries), and payment of work disability subsidies. The minimum benefit coverage shall not be less than 25% of the coverage ensured in FONASA's general plan.

Medical benefits can be accessed from the second month after signing the plan. For example, if the plan was signed during October, the beneficiary can use the benefits starting 1 December.

ISAPREs offer three kinds of plans. The first kind are free choice plans, whereby ISAPREs provide discounts for healthcare services by any medical providers of the affiliate's choice. The second kind are closed plans, whereby ISAPREs provide a discount only for healthcare services by medical providers specified in the plan. The third kind are preferential provider plans, whereby ISAPREs provide a larger discount for healthcare services by medical providers specified in the plan and lower discounts for healthcare services by other medical providers. The plans also establish the maximum discount percentage ISAPREs offer for each benefit. Each plan has a price that may be reviewed yearly due to changes in the number of beneficiaries, changes in the beneficiary's age segment or administration costs.

Coverage is restricted for certain preexisting diseases and conditions. For these purposes, future affiliates must answer a questionnaire declaring their health condition, including preexisting diseases. Preexisting diseases and conditions that were declared in the questionnaire may not be covered or have a lower coverage for the first 18 months of the plan. Preexisting diseases and conditions that were not declared in the questionnaire may not be covered at all or be subject to other restrictions for a maximum of five years unless lack of declaration is justified. ISAPREs also do not cover cosmetic surgery; private nursing care, except benefits covered by FONASA; hospitalisation for recreational purposes; benefits covered by other laws up to the amount covered; services required by a beneficiary because of their participation in acts of war; unreported preexisting illnesses or health conditions; benefits granted outside the national territory, unless they are included in the health plan; and benefits and medications not included in the ISAPREs' tariff.

6.4. Financing

FONASA has two sources of financing. On the one hand, it is financed by affiliates' contributions, which amount to 7% of their taxable income, and by beneficiaries' co-payments, when they purchase service vouchers from private health providers that have signed an agreement with FONASA (MLE). For FONASA affiliates, the amount of the co-payment is set in the tariff established by the Ministry of Health and Finance at the proposal of FONASA. As FONASA operates as a Public Health Insurance, the contributions of each insuree serve as a protection net to finance the potential health problems that any user of the public health system may have, such as financing the programme doctors, consultations, treatments, hospitalisations, and medical care. On the other hand, FONASA is financed

through direct taxation or current transfers between different public agencies under the Ministry of Health. Tax-funded State contributions to FONASA amounted to 77% of its income in 2021.

ISAPREs in turn are private insurance institutions, and the mandatory contributions of each affiliate only finance their own benefits. The contribution amount is uniform: 7% of the affiliate's taxable income. However, affiliates can add a voluntary contribution to this mandatory contribution, with a taxable cap of 75.7 UF, in order to have a plan with more coverage. ISAPRE affiliates pay 20% of AUGE/GES benefits' cost, according to the reference tariff available in each ISAPRE, with a cap of 29 contributions in the case of one illness or 41 monthly contributions in the case of two or more illnesses. The sum of the co-payments during a year may not exceed 122 UF in the case of one disease or 181 UF in the case of two or more diseases.

In addition to the health plans offered by the ISAPREs, affiliates can take out voluntary supplementary insurance. They can also opt for no-cost plans offered by ISAPREs, such as discounts at pharmacies and others.

PGU, PBSI or APSI beneficiaries or pensioners over 65 years of age who are part of a family group belonging to the fourth most vulnerable quintile of the population and can prove that they have lived in Chile for at least 20 years (continuously or discontinuously), including four of the last five years, are exempt from the obligation to pay the 7% health contribution, both in FONASA and in ISAPREs. In this case, the respective health benefits are financed through the IPS.

6.5. Provision and Administration

FONASA is the entity that administers the public healthcare system. It is supervised by the Ministry of Health and its operation is subject to the policies, regulations and plans of the latter. It is also subject to supervision by the Superintendency of Health, with respect to the rights of FONASA beneficiaries and especially to explicit health guarantees. FONASA collects, manages and distributes the contributions paid by its affiliates and the contributions that the treasury transfers. It also collaborates with the Ministry of Health in the management of public resources for health and settles the claims of its beneficiaries.

There are two modalities of access to the benefits offered by FONASA's general plan. The first is through the public health network, in the Institutional Care Modality (*Modalidad de Atención Institucional – MAI*), which is made up of a series of entities whose services are structured according to levels of complexity:

- a) The primary level of care comprises the General Primary Health Care Offices, Family Health Centres (CESFAM) and Rural Health Posts. The services provided in primary care establishments are free of charge for insured persons in all FONASA segments (A, B, C and

- D) and include consultations, medical check-ups, laboratory tests, imaging and certain dental services, among others. At this level, a 100% State contribution is contemplated for pharmaceutical products contained in the basic pharmacological arsenal.
- b) For more complex treatment, secondary care is provided by Health Referral Centres, Diagnostic and Treatment Centres. At this level, there is a 100% State contribution for pharmaceutical products contained in the basic pharmacological arsenal for segments A and B, 90% for segment C, and 80% for segment D.
- c) The tertiary level of care comprises general hospitals (adults and children) and specialised hospitals. The same benefits that are free at the secondary level are also free at the tertiary level. In addition, this level provides for a 100% State contribution for pharmaceutical products contained in the basic pharmacological arsenal for sections A and B, 60% for section C and 35% for section D.

FONASA's second modality of access to benefits is through private health establishments, in the Free Choice Modality (*Modalidad Libre Elección – MLE*), such as clinics, medical centres, university hospitals, laboratories, etc. Insurees belonging to brackets B, C and D and their dependants have access to this modality of care and can purchase vouchers and medical programmes for private providers or medical centres that have signed an agreement with FONASA. These benefits cover a wide range of services, from medical consultations, laboratory and imaging tests, diagnostic and therapeutic procedures, to hospitalisations and surgical and obstetric interventions, among others.

ISAPRES' benefits can only be provided through private healthcare providers, as delineated in each individual plan. ISAPREs are supervised by the Superintendency of Health and by the Superintendency of Social Security (*Superintendencia de Seguridad Social – SUSESO*).

7. WORK ACCIDENTS AND OCCUPATIONAL DISEASES INSURANCE SYSTEM

The Social Security against Risks of Accidents at Work and Occupational Diseases (WAOD) is a mandatory insurance scheme that protects all dependent and independent contributing workers against occupational and commuting accidents and occupational diseases. The insurance covers preventive, medical and economic benefits, as appropriate, in the event of work and commuting accidents, as well as occupational diseases. The insurance's financing is mainly based on contributions paid by the employer, the self-employed and volunteer workers, which are calculated as a percentage of the remuneration or taxable income.

7.1. Regulation

Act 16.744 (23 January 1968) establishes a specific mandatory work accidents and occupational diseases insurance scheme, to provide healthcare and economic compensations to workers who suffer a work-related injury or contract a professional disease, as well as to set up preventive programmes at the workplace. This same Act lays down the legal foundations for the work injury protection for self-employed persons (both compulsory and voluntary), students and apprentices. The Act defines a work accident as any injury suffered by the worker because of or during work, which causes disability or death. Accidents that occur on the way to or from the workplace, as well as accidents that occur when moving from one workplace to another, even if different employers are involved, are also considered as work accidents, although they are subject to a specific regulation. Accidents at work due to a strange force majeure that is unrelated to work (natural disasters), accidents that result from ‘inexcusable negligence’ of the worker or are ‘intentionally caused by its victim’ are excluded from coverage. According to the Act, occupational illnesses are diseases or conditions caused directly by the exercise of the profession or work of a person, which result in disability or death. A regulation by the Ministry of Health establishes an open-ended list of occupational illnesses. Illnesses not explicitly mentioned in the regulation are only covered by this insurance scheme if they were previously evaluated and qualified by the health authorities.

In addition, the Labour Code (DFL 1, 16 January 2003) imposes on the employer the obligation to take all necessary measures to effectively protect the life and health of workers, informing them of possible risks and maintaining adequate conditions of hygiene and safety at work, as well as the necessary equipment to prevent accidents and occupational diseases. The employer is also responsible for providing or guaranteeing the necessary elements for workers to have access to timely and adequate medical, hospital and pharmaceutical care in the event of an accident or emergency. In turn, workers have the right to interrupt their work and, if necessary, leave the workplace when they consider, on reasonable grounds, that continuing with their work involves a serious and imminent risk to their life or health.

7.2. Coverage

The following persons are compulsorily subject to the WAOD insurance:

- a) all employed persons, whatever the work they perform, whether manual or intellectual, or whatever the nature of the company, institution, service or person for whom they work; including domestic servants and apprentices;
- b) civil servants in the civil administration of the State, municipalities and administratively decentralised institutions of the State;
- c) students who are required to perform work that represents a source of income for the respective school;

- d) self-employed workers who receive an annual taxable income equal to or of more than four minimum monthly incomes, as well as family workers.
- e) All students shall also be protected for accidents suffered by them as a result of or in connection with their studies or in the course of their professional practice. For these purposes, students shall be understood to be pupils of any level or course of the educational establishments officially recognised in accordance with the provisions of Act N° 18.962, Organic Constitutional Law on Education.

Enrolment in the insurance is automatic and is effected by the mere incorporation of the worker into the pension system. It remains in force for as long as the worker provides services. Moreover, affiliation and coverage apply to each job, so that a worker who has several jobs at the same time is insured separately through each employer. Self-employed workers who receive an annual taxable income of less than four minimum monthly incomes are exempt from the obligation to contribute to the pension system and, consequently, are also exempt from the insurance of Act 16.744, although they may voluntarily contribute to this insurance as self-employed workers.

Officers of all levels of the Armed Forces as well as the Public Order and Security Forces are excluded, as they have their own system (CAPREDENA and DIPRECA, respectively).

7.3. Benefits

The Chilean WAOD insurance system includes both cash and in-kind benefits. In-kind benefits consist of medical care and other services, such as surgical and dental care, hospitalisation, medications, prostheses and orthopaedic devices and their repair, conservation and change, rehabilitation, transfer costs and professional re-education. These benefits have no additional cost and are provided from the day after the disability began, or the date of diagnosis of the occupational disease until complete recovery, or for as long as the consequences of the accident persist. There is no cost sharing.

Cash benefits, in turn, include:

- a) temporary invalidity subsidy (*Subsidio por Incapacidad Laboral*): the benefit level is 100% of the insured's net monthly earnings (public sector) or 100% of such earnings in the three months before the invalidity began (private sector) or 100% of the insured's annual covered income divided by 12 (mandatorily covered self-employed persons).¹⁹ The benefit is paid from the day of injury for up to 52 weeks and may be extended up to an additional 52 weeks. The daily amount of the allowance for incapacity for work, whatever its origin, may not be less than one thirtieth of 50% of the minimum income for non-remunerative

¹⁹ 100% of the insuree's average net monthly declared income in the six months before the disability began in the case of voluntarily insured persons.

purposes. The allowance is paid even for public holidays and is not subject to deductions for taxes or social security contributions. The amount of the subsidy is adjusted by a percentage equivalent to the increase in the corresponding wages and salaries as provided for by the legislation in force or by the application of collective bargaining agreements;

- b) a lump-sum compensation payment (*Indemnización global*), if the consequences of a work accident or occupational disease result in a loss of earning capacity of at least 15% but lower than 40% (presumably of a permanent nature). This compensation consists of a single sum of money that cannot exceed 15 times the worker's base salary. In no case may this lump-sum compensation be less than 11.138% of the minimum income for non-remunerative purposes (approximately 29,435 CLP (ca. 33,3 EUR)).
- c) Pensions may also be granted based on partial invalidity (*Pensión de invalidez parcial*), if the consequences of a work accident or occupational disease result in permanent loss of earning capacity of at least 40%. Pensions may be also granted based on partial disability if loss of earning capacity is greater than or equal to 40% but lower than 70%, in which case they amount to 35% of the worker's base salary. Pensions may also be granted based on total disability (*Pensión de invalidez total*), if permanent loss of earning capacity is at least 70%, in which case they amount to 70% of the base salary. If, in addition to suffering a total disability, a worker requires the support of third parties to carry out everyday tasks, he or she will be entitled to a supplementary constant attendance allowance (*Suplemento por gran invalidez*), which increases the total disability pension by 30%. Moreover, the total disability pension may be supplemented by a special family benefit (*Suplemento por hijo*): 5% of the permanent disability pension is paid for the third and each subsequent child entitled to family allowances.

These pensions are temporary and are only paid until the worker meets the requirements to receive an old-age pension under the common or general pension scheme. These pensions are automatically readjusted by 100% of the variation experienced by the Consumer Price Index (*Índice de Precios al Consumidor – IPC*) between the month prior to the last readjustment granted and the month in which this variation reaches or exceeds 10%. However, if twelve months have elapsed since the last readjustment without the variation in the aforementioned index reaching 10%, the aforementioned pensions shall be readjusted by the percentage of the variation experienced by the index during that period, in which case the latter readjustment shall replace the aforementioned one. The new adjustment to be applied shall take effect on the first day of the month following the month in which the aforementioned variation is reached or the aforementioned period is completed, as applicable.

Those who receive a disability pension whose amount, together with that of any other pension they receive from the DL 3.500 system, is less than the PGU, will be entitled to a Solidarity Invalidity Pension Contribution (*Aporte Previsional Solidario de Invalidez – APSI*),

for the necessary sum to match the value of the PGU. APSI beneficiaries will receive this benefit until the last day of the month in which they reach the age of 65.

- d) Act 16.744 establishes the right to a survivors' pension (*Pensión de Supervivencia*) for the surviving spouse, the insured worker's widow, the mother of the worker's children born out of wedlock who lived at his expense until the moment of his death, the worker's children, and the worker's ascendants or descendants who were entitled to a family allowance, if the accident or disease caused the worker's death or if he dies as a pensioner, under the following rules:
- The surviving spouse over 45 years of age, or an invalid of any age, is entitled to a life pension equal to 50% of the basic pension that would have been payable to the victim if he or she had become totally disabled, or of the basic pension that he or she was receiving at the time of death. The same pension is payable to a widow or widower under 45 years of age for a period of one year, which is extended for as long as the widow or widower is caring for children who are entitled to a family allowance. If, at the end of the period or its extension, the surviving spouse has reached the age of 45, the pension shall be converted into a life pension. This entitlement ceases if the widow or widower remarries. In this case, however, surviving spouses are entitled to a lump-sum payment of the equivalent of two years' pension.
 - The mother of the deceased's children, whether unmarried or widowed, who had been living at the deceased's expense up to the time of his death, is also entitled to a pension equal to 30% of the basic pension which would have been payable to the victim if he had become fully disabled or of the basic pension he was receiving at the time of death, without prejudice to the pensions payable to the other entitled beneficiaries. To be entitled to this pension, the deceased must have recognised his children before the date of the accident or diagnosis of the disease. The pension is granted for the same period and under the same conditions as the widow's pension. This entitlement ceases if the mother of the deceased's children who is entitled to a life pension remarries, in which case she is also entitled to a lump-sum payment of the equivalent of two years of her pension.
 - Each of the deceased's children, under the age of 18 or over that age but under the age of 24, who are in regular secondary, technical or higher education, or disabled of any age, shall be entitled to a pension equal to 20% of the basic pension which would have been payable to the victim if they had become fully invalid or of the basic pension which they were receiving at the time of death.
 - In the absence of the above-mentioned persons, each of the deceased's ascendants or other descendants who were entitled to a family allowance shall be entitled to a pension of the same amount as the insured worker's children. Descendants are entitled to an orphan's pension (*Pensión de orfandad*) until the last day of the year in

which they reach the age of 18 or 24, as the case may be. If the descendants of the deceased worker have no parents, their pension is increased by 50%.

The sum of the survivors' pensions may not exceed 100% of the pension to which the victim would have been entitled for total invalidity, or of the total pension the victim was receiving at the time of death, excluding the supplement for severe invalidity. Reductions are made on a pro rata basis of corresponding shares, as well as increases if any of the beneficiaries ceases to be entitled.

- e) Students who suffer a school accident are entitled to the following benefits, which will be provided free of charge until complete recovery or for as long as the symptoms of the sequelae caused by the accident persist:
- medical, surgical and dental care in external establishments or at home;
 - hospitalisation if necessary, in the opinion of the treating doctor;
 - medicines and pharmaceutical products;
 - prostheses and orthopaedic appliances and their repair;
 - physical rehabilitation and vocational re-education; and
 - the costs of transport and any other expenses necessary for the provision of these benefits.

A student who, as a result of a school accident, loses at least 70% of his current or future capacity to work, as assessed by the National Health Service, is entitled to a disability pension equal to 22.2757% of the minimum income for non-remunerative purposes, which shall be readjusted in accordance with the variations in the minimum income. If students suffer a loss of working capacity of less than 70% and equal to or greater than 15%, they shall be entitled to the aforementioned pension only when they can prove by means of a social report that they lack resources equal to or greater than the amount of the pension. This benefit is granted on a temporary basis until the date on which students finish their studies or come to receive resources of the indicated amount. In order to determine the lack of resources, in cases where the student is part of a family unit, the income of the family unit is divided by the number of people in the family unit. These pensions are incompatible with any other income received by the beneficiary, if they exceed, when added together, the amount equivalent to 44.5514% of the minimum income for non-remunerative purposes.

Students with an invalidity resulting from a school accident who experience a considerable impairment in their ability to study, as assessed by the National Health Service, are also entitled to receive free education from the State in ordinary or special establishments,

according to the nature of the invalidity and the conditions of the victim's remaining ability to study.

- f) Transfer expenses and all other expenses that may be necessary for the provision of the in-kind benefits covered by the insurance and the recovery of the worker are also paid.
- g) The insurance provides for a funeral grant.

For the purposes of calculating the lump-sum compensation, and the partial and total invalidity pensions, the base income is the average of the taxable income that the insured person has received in the last 10 years. If the person has been affiliated to an AFP for less than 10 years and the disability or death is caused by an accident, the sum of the insuree's income is divided by the number of months from affiliation to the month prior to the month of the accident.

Invalidity and survivorship pensions as established in Act 16.744 are incompatible with old-age and invalidity pensions as established in DL 3.500.

The WAOD insurance system also provides prevention-related services, including technical assistance in the event of work accidents and occupational diseases, counselling in health and workplace safety, self-evaluation checklists at the workplace, courses, seminars, conferences and workshops.

7.4. Financing

The WAOD insurance system for dependent workers is financed through two kinds of contributions paid by employers:

- a) a basic mandatory uniform contribution equivalent to 0.9% of the worker's taxable income;
- b) an additional mandatory contribution, the amount of which depends on the activity and risk involved with a cap of 3.4% of the worker's taxable income. Companies or entities that implement or have implemented preventive measures that significantly reduce the risk of occupational accidents or diseases may request a reduction of the additional contribution rate or exemption from it if they reach an optimal level of safety. On the other hand, companies or entities that fail to provide satisfactory safety or hygiene conditions, or that do not implement the safety measures ordered by the competent body, shall be required to pay the additional contribution with a surcharge of up to 100%, in addition to the other penalties applicable to them. The additional contribution may be of a presumed or actual nature, as determined on the basis of estimated or identified risks, respectively. The effectiveness of preventive measures is measured in terms of days lost due to sick leave caused by occupational hazards and deaths of workers due to work-related causes. The

accident rate is reviewed every two years by the insurance entity for the respective company.

Additional financing sources of the WOAD insurance scheme include fines for infringements to Act 16.744 and utilities from reserve funds' investments.

7.5. Provision and Administration

The WOAD insurance system is administered and managed by public and private entities. The public administrators of the system are the Labour Safety Institute (*Instituto de Seguridad Laboral* – ISL) and the Health Services (*Servicios de Salud*). The medical benefits of ISL affiliates are granted by Health Services and the specialised entities they have agreements with. The private sector participates in the management through the Employers' Mutual Funds (*mutualidades de empleadores*). The Funds are non-profit private law corporations created by employers to administer Social Insurance for Work Accidents and Occupational Diseases. They are authorised by the President of the Republic to provide the benefits covered by this insurance, and they are administered by a board of directors made up of representatives of employers and workers of member companies. Contributions are collected by ISL and the Mutuals.

Each company can freely determine which kind of entity to join to protect its workers. By default, all workers will be affiliated with the ISL.

Administration of the WOAD insurance system can also be delegated to certain companies, who have been authorised to provide their own workers with the benefits of Act 16.744. Invalidity and survivorship pensions are excluded from this self-insurance mechanism, as they are always provided by ISL.

SUSESO supervises all public and private entities administering the WOAD insurance system. It also provides authoritative interpretation of the system's regulation, decides on users' claims regarding their social security rights or the entities supervised by the SUSESO, and offers courses and workshops on social security-related topics.

8. FAMILY BENEFITS SYSTEM

The Chilean legal tradition has historically emphasised the social importance of the family and the State's obligation to protect it. In this context, national legislation recognises a series of family benefits and allowances, aimed at ensuring minimum subsistence levels for workers and their families, enabling them to reconcile their work duties with their caring tasks and fostering the growth of families.

8.1. Regulation

Act 18.020 (17 August 1981) created a family allowance and a maternity allowance, that target vulnerable residents in the country, either as individuals or as family units. These benefits operate as a last social safety net, as they are provided to mothers, fathers or guardians who do not have social security and therefore do not have sufficient resources to support their family responsibilities. In other words, these subsidies are given to individuals or family groups who do not receive income and therefore do not have contributions and cannot support themselves financially. As the subsidies are not employment-related, their amount is fixed and only varies according to each kind of dependant's need.

In turn, DFL 150 (25 March 1982) established the basic legal framework for the Unified System of Family Benefits for workers in the public and private sectors by systematising in a single legal body previously fragmented legislation on the subject. These benefits consist of an employment-related and a social assistance system providing two cash benefits: a family allowance and a maternity allowance. The two allowances are employment-related, aimed at people who receive an income, contribute to the social security system and can support their families. Therefore, their amount varies according to the beneficiary's income. Specific supplements for dependants can be found in social insurance schemes, too. Act 18.987 (11 July 1990), in turn, defines income brackets to calculate the amount of each of the benefits included in the system.

On the other hand, the Labour Code (DFL 1, 16 January 2003), provided for rules on the protection of maternity, paternity and family life. These rules include pre- and postnatal maternity leave, postnatal parental leave, a subsidy derived from postnatal parental leave, and a leave of absence from work in case of accidents or illness of children requiring the personal care of the working parent. In addition, the Labour Code also establishes the obligation of certain companies to have childcare facilities, as well as the conditions for their operation and maintenance.

Moreover, Act 20.255 (17 March 2008) introduced a special tax-financed child bonus for women (*bonificación por hijo para las mujeres*). The aim of this cash benefit is to increase pension coverage for women, who, given certain deficiencies in the labour market as well as in the pension system itself, statistically obtain lower pensions than men. Indeed, women's lower labour market participation rate, their access to lower-paid jobs on average, the interruption of their labour participation during their reproductive years, their lower legal retirement age and their longer life expectancy all result in their having to finance a greater number of years of retirement and enjoy a lower pension.

Finally, via Act 20.595 (17 May 2012) Chile established a special social assistance program for families in extreme poverty, called Subsystem Securities and Opportunities (*Subsistema Seguridades y Oportunidades*), which is part of the national social protection system. Its

objective is to promote access to better living conditions for families and individuals by overcoming conditions of extreme poverty and social vulnerability that affect them, as well as to guarantee the exercise of their rights throughout the life cycle. This subsystem provides comprehensive and continuous support to the most vulnerable individuals and households, through coordinated actions of accompaniment, access to services and the granting of social benefits, including vouchers and cash transfers.

8.2. Coverage

Both the family subsidy and the maternity subsidy are intended for low-income persons who are not in a position to provide for themselves and their dependants on their own or together with the family group, taking into account the social and economic conditions of the beneficiary. For these purposes, low-income persons are defined as those who belong to the most vulnerable 60% of the population, according to the Social Household Register, who are not workers affiliated to a social security system.

By contrast, the family allowance and child benefit cover individuals who are able to provide for themselves and their family unit, but who require an income supplement. These benefits provide coverage to:

- a) wage and salaried workers from the public and private sectors;
- b) self-employed workers affiliated with a social security scheme as of 1 January 1974 that includes the family allowance amongst its benefits;
- c) self-employed workers who have proved dependency of family members before the IPS, regardless of whether they are obliged to contribute to the AFP system;
- d) beneficiaries of the unemployment subsidy or work disability subsidy;
- e) pensioners;
- f) state institutions or state-recognised institutions in charge of raising and maintaining children who are orphans, have been abandoned or have disabilities;
- g) recipients of a widow's pension;
- h) people who have minors under their care by a court-ordered protection measure;
- i) workers entitled to benefits from the Solidarity Unemployment Fund who were already receiving a family allowance when they lost their jobs;
- j) PGU beneficiaries;
- k) mental disability subsidy beneficiaries.

For their part, the provisions of the Labour Code on maternity, paternity and family life protection apply to the services of the public administration, semi-fiscal services, autonomous administration, municipalities and all services and establishments, cooperatives or industrial, extractive, agricultural or commercial companies, whether they are public, semi-fiscal, autonomous or independent, municipal or private, or belong to a corporation under public or private law. Thus, the aforementioned provisions benefit all workers who depend on any employer, including those who work at home and, in general, all those who are covered by a social security system.

The child bonus covers all women affiliated to the DL 3.500 pension system; or who are beneficiaries of a PGU, provided they are not affiliated to any pension scheme; or who, without being affiliated to a pension scheme, receive a survivors' pension, and who are biological or adoptive mothers.

Lastly, individuals and families living in extreme poverty are eligible for access to the Securities and Opportunities Subsystem. For these purposes, extreme poverty is understood to mean those individuals and families whose monthly per capita income is less than what is necessary per person to satisfy their food needs, according to a qualification process carried out by the Ministry of Social Development. Individuals and families who enter the Subsystem remain in it for a maximum period of 4 years from their qualification by the Ministry of Social Development. In addition, in order to become a user of the Subsystem, an express manifestation of willingness to comply with its requirements and conditions is required, through the signing of a commitment document. Individuals and their families, where applicable, who are in a situation of vulnerability because they meet any of the following conditions, may also access the Subsystem: being 65 years of age or older, living alone or with one person and being in a situation of poverty; living in a street situation; minors, whose significant adult is deprived of liberty, and caregivers of such minors. The annual coverage of new users of the Subsystem cannot exceed 70,000 persons or families.

8.3. Benefits

The system includes the following cash benefits:

- a) The family subsidy (*Subsidio Familiar/Subsidio Único Familiar – SUF*) is a monthly conditional benefit that the State provides to most vulnerable persons who do not have social security, who do not have sufficient resources to support themselves and their families and are registered in the respective National Registry of Households, in the following order: mothers, fathers (in the absence of the mother) or guardians (of children and of persons with disabilities).

The family subsidy is payable for children up to the age of 18 and disabled persons of any age who live at the expense of the beneficiary, who participate, if applicable, in the health programmes established by the Ministry of Health for the care of children, and who do not

receive an income equal to or greater than the amount of the subsidy, regardless of its origin or source. This requirement does not apply to non-disabled dependants aged eight years or over. Children older than age six must regularly attend primary, middle or secondary school in recognised education institutions.

The amount of the family subsidy is 20,328 CLP (ca. 23 EUR) per dependant. However, the amount for persons with disabilities is twice as high (40,656 CLP, ca. 46 EUR). Dependants who qualify for the family subsidy can also receive free medical (preventive and curative) and dental care. This benefit is incompatible with the other benefits of the Unified System of Family Benefits (family allowances); the Basic Solidarity Disability Pension (PBSI); the PGU, with respect to disabled and invalid claimants; and the disability allowance for children under 18 years of age.

- b) The maternal subsidy (SUF Maternal) is a cash benefit that can be requested by women who belong to the 60% of low-income families in the country, according to the Social Registry of Households, from the fifth month of pregnancy, but is paid retroactively until the entire gestation period is completed. Upon birth, the mother of the child becomes the beneficiary of family subsidy, in which case the latter shall be payable from the day of birth. In order to receive this benefit, no other income or similar entitlements (family allowance, income from work and/or prenatal and postnatal care or family subsidy, for example) should be available. The amount of the maternal subsidy is equivalent to the amount of the family subsidy. This benefit is incompatible with the other benefits of the Unified System of Family Benefits (family allowances); the Basic Solidarity Disability Pension (PBSI); the PGU, with respect to disabled and invalid claimants; and the disability allowance for children under 18 years of age.
- c) The family allowance (*Asignación Familiar*) is a means-tested benefit paid monthly to wage/salaried workers and pensioners, and yearly to self-employed workers, for each dependant living at their expense who do not receive income, whatever its origin or provenance, greater than or equal to 50% of the monthly minimum wage for over three months in each calendar year. The dependants for whom family allowances are paid are:
- the beneficiary’s spouse;
 - the beneficiary’s children or stepchildren up to 18 years of age;
 - the beneficiary’s children of any age if they are disabled;
 - the beneficiary’s children up to 24 years of age, single, who complete formal studies in institutions of or recognised by the State;
 - the beneficiary’s grandchildren or great-grandchildren, (half-)orphans or children abandoned by their parents, up to the ages referred above;

- The beneficiary's widowed mother;
- the beneficiary's ascendants over 65 years of age or, if disabled, of any age;
- orphaned or abandoned children and disabled children under the care of State or State-recognised institutions in charge of raising and maintaining orphaned or abandoned children and persons with disabilities;
- minors up to 18 years of age, or of any age if they are disabled, and those over 18 and up to 24 years of age, single, completing formal studies in State institutions or recognised by same, whose care has been entrusted to the care of the beneficiary by a court-ordered protection measure.

The monthly amount of the Family Allowance depends on the worker's income bracket.²⁰ For workers whose monthly income is equal to or less than 429,899 CLP (ca. 486 EUR), the allowance is 20,328 CLP (ca. 23 EUR); for workers whose monthly income is between 429,900 CLP and 627,913 CLP, the allowance is 12,475 CLP; and for workers whose monthly income is between 627,914 CLP and 979,330 CLP, the allowance is 3,942 CLP. Above 979,331 CLP, no allowance is payable. The family allowance is paid monthly to pensioners and dependent workers affiliated to a pension system (AFP and former pension funds, merged into the IPS). Self-employed workers receive the money once a year.

- d) The maternity allowance (*Asignación Maternal*) is paid to pregnant insured persons or insured persons on behalf of their pregnant spouses during pregnancy. The benefit can only be claimed from the fifth month of pregnancy, but once it has been assigned and entitlement has been verified, it is paid retroactively and for the entire period of pregnancy. The monthly amount of the maternity allowance and the income brackets for its calculation are the same as those for the family allowance.
- e) Female workers are entitled to a maternity leave of six weeks before (*permiso maternal prenatal*) and twelve weeks after childbirth (*permiso maternal postnatal*). In turn, the father is entitled to a paid leave of five days in the event of the birth of a child, which he may use at his choice from the moment of birth, and in this case it will be continuous, excluding weekly rest, or he may distribute it within the first month from the date of birth. This leave is also granted to the father who is in the process of adoption, and is counted from the notification of the decision granting personal care or accepting the adoption of the child. If the mother dies in childbirth or during the period of leave following childbirth, the leave or the remainder of the leave for the care of the child shall be taken by the father or the person granted custody of the child. These rights are non-waivable and pregnant and postpartum women are prohibited from working during rest periods. Furthermore,

²⁰ Special rules apply for workers with short-term contracts of up to six months.

notwithstanding any stipulation to the contrary, they shall retain their jobs or posts during such periods.

Workers are also entitled to additional leave in the following cases:

- If, during pregnancy, illness occurs as a result of pregnancy, verified by medical certificate, the worker is entitled to additional prenatal leave, whose duration is determined, where appropriate, by the services responsible for preventive or curative medical care.
 - If the birth occurs later than six weeks after the date on which the worker started maternity leave, prenatal leave is extended until the birth, and the postpartum leave is calculated from the date of birth, which must be proved, before the expiry of the period, with the corresponding medical or midwife's certificate.
 - If, as a result of childbirth, an illness is diagnosed by a doctor's certificate which prevents return to work for a period longer than the postnatal leave, the postnatal leave shall be extended by the period determined by the department responsible for preventive or curative medical care, as appropriate.
 - If the birth takes place before the beginning of the 33rd week of gestation, or if the child at birth weighs less than 1,500 grams, the postnatal leave is eighteen weeks.
 - In the case of births of two or more children, the period of postnatal leave is increased by seven calendar days for each child born from the second child onwards.
- f) Female workers are entitled to 12 weeks' postnatal parental leave (*permiso parental postnatal*) after the regular postnatal period, during which they receive an allowance calculated on the same basis as the allowance for regular maternity leave. However, the worker may return to work at the end of the regular postnatal leave, for half of her working day, in which case the postnatal parental leave is extended to eighteen weeks. In this case, she receives fifty per cent of the allowance, at least fifty per cent of the fixed stipends established in the employment contract, and any other variable remuneration to which she may be entitled. If the mother is deceased or the father has the personal care of the child by a court decision, he is entitled to postnatal parental leave and allowance in his own right.

If both parents are workers, either of them, at the choice of the mother, may take postnatal parental leave, from the seventh week of the leave, for the number of weeks indicated by the mother. The weeks used by the father must fall within the final period of leave and entitle him to the allowance, calculated on the basis of his remuneration.

All dependent workers in the private and public sector, and independent workers, affiliated to the social security system, are beneficiaries of the postnatal parental leave, including workers who are affiliated to CAPREDENA and DIPRECA.

- g) During maternity leave, dependent workers in the private sector and self-employed workers who are covered by a pension system are entitled to an incapacity for work allowance (*subsidio por incapacidad laboral*) in lieu of pay. The amount of this allowance cannot exceed the average wage earned by the worker during the three months prior to the beginning of the seventh month of pregnancy, which is when the prenatal leave starts. This amount is divided by 90 and increased by 100% of the variation of the IPC in the seven months prior to the month in which the leave begins, and increased by 10%. For this calculation, occasional remuneration or remuneration corresponding to periods longer than one month (e.g. Christmas bonuses) must be excluded. The same calculation formula is used when it is the father who takes postnatal parental leave. The allowance's monthly cannot be less than half a minimum monthly income for non-remunerative purposes (that is, 132,141 CLP (ca. 150 EUR) as of 3 May 2023) and is capped at 73.2 UF.

To be eligible for this allowance, dependent workers must meet the following requirements:

- have a medical leave of absence duly authorised by the COMPIN, in the case of FONASA affiliates, or by the respective medical comptroller of an ISAPRE, for ISAPRE affiliates;
- have six months of social security affiliation prior to the month in which the leave begins;
- have three months of contributions, equivalent to 90 days of contributions, within the six months prior to the initial date of the medical leave. In the case of workers hired on a daily shift or daily basis, this requirement may be reduced to 1 month (equivalent to 30 days) of continuous or discontinuous contributions within the 180 days prior to the medical leave;
- have a valid employment contract.

In the case of self-employed women, the following requirements must be met in order to qualify for the allowance:

- have an authorised medical leave of absence;
- have twelve months of health insurance prior to the month in which the leave of absence begins;

- have paid at least six months of continuous or discontinuous contributions within the twelve-month period of health insurance prior to the month in which the leave of absence begins;
- be up to date in the payment of contributions. For these purposes, the worker who has paid the contribution corresponding to the month prior to that in which the incapacity occurs shall be considered up to date.

Public sector workers are entitled to continuation of pay during maternity leave, not an allowance. For the same reason, the 73.2 UF ceiling does not apply to these workers.

Workers who are on fixed-term contracts or who are not working on the date on which their prenatal leave should begin are also entitled to an allowance, for up to a maximum of 30 weeks (120 days), which is payable from the sixth week before the probable date of childbirth. If the birth takes place after the 34th week of pregnancy, the duration of the benefit is reduced by the number of days or weeks by which the birth was anticipated. However, this reduction does not apply if the child at birth weighs less than 1,500 grams. If the birth occurs before the beginning of the 34th week of gestation, the benefit is granted for 30 weeks from the date of birth. In the case of multiple births, the period of benefit is increased by seven calendar days for each child born from the second child onwards, provided that the births take place after the 34th week.

To receive this benefit, beneficiaries must meet the following requirements:

- present a medical leave authorised by the COMPIN corresponding to their place of residence, certifying that they are in the sixth week of pregnancy prior to the estimated delivery date;
- have been insured for 12 months or more prior to the start of the pregnancy;
- have eight or more contributions, continuous or discontinuous, as a dependent worker, within the last 24 calendar months immediately prior to the start of the pregnancy;
- the last contribution, closest to the month prior to the pregnancy, must have been made under any type of fixed-term employment contract or contract for a specific job, service or task.

The daily amount of the allowance is an amount equal to one thirtieth of the calculation basis of the allowance. The calculation basis for determining this allowance is an amount equal to the sum of the net monthly remuneration (taxable remuneration, minus social security contributions and personal taxes), the allowance, or both, earned by the woman in the twenty-four calendar months immediately prior to the start of the pregnancy,

divided by twenty-four. For the purposes of calculating the above-mentioned average, each net monthly remuneration, allowance, or both, is adjusted in accordance with the variation experienced by the IPC between the last day of the month prior to the month in which the remuneration, allowance, or both, accrued and the last day of the month prior to the month in which the allowance began. The daily amount of the allowances for incapacity for work, whatever their origin, cannot be less than one thirtieth of 50% of the minimum income for non-remunerative purposes, i.e. 4,404.70 CLP (ca. 5 EUR) as of 1 January 2023. Beneficiaries must pay contributions to the pension and health insurance schemes on top of the amount of the allowance.

- h) When the health of a child under one year of age requires care at home because of serious illness (supported by a medical certificate issued or ratified by the services responsible for the medical care of minors), the working mother shall be entitled to the leave and allowance, for such period as the respective service may determine. If both parents are workers, either of them, at the choice of the mother, is entitled to the aforementioned leave and allowance. However, the father shall be entitled to the leave and the allowance when the mother is deceased or when he has custody of the child by a court decision. The worker is also entitled to this leave and allowance if they are responsible for a minor under the age of one year, for whom they have been judicially granted guardianship or personal care as a protective measure. This same right also extends to the spouse or civil partner.

When the health of a child over one year of age and under eighteen years of age requires the personal care of their parents because of a serious accident or a serious, acute and life-threatening illness, both the working parents are entitled to a leave of absence from work for a number of hours equivalent to ten ordinary working days per year, distributed at the choice of the worker in full or part days or a combination of both, which are deemed to have been worked for all legal purposes. The accident or illness must be proved by a certificate issued by the physician in charge of the child's care.

If both parents are workers, they may use this leave either jointly or separately. When the personal care of the child is in the hands of a third party other than the parent, granted by a court decision, only the third party may use the leave on the same terms as the parent. Workers may also use this leave when their spouse, civil partner or parent is terminally ill and this circumstance is proven by means of a medical certificate. Likewise, trade union organisations may enter into agreements with the employer, so that workers with family responsibilities may have access to working time systems that combine on-site and off-site working time, working time in the company and outside the company.

The time not worked must be made up by the worker by charging it to their next annual holiday or by working overtime or in any other way freely agreed on by the parties. However, for workers governed by statutes that provide for the granting of administrative days, the worker must first make use of them and then may impute the time to be made

up to his or her next annual holiday or to administrative days in the year following the use of the leave or overtime. If it is not possible to apply these mechanisms, the time equivalent to the leave obtained may be deducted from the worker's monthly remuneration, in the form of one day per month, which may be divided according to the payment system, or in full if the worker ceases to work for any reason.

- l) The child bonus, which consists of a State contribution for every child born alive, equivalent to 10% of 18 minimum incomes, as set for workers over 18 years of age and up to 65 years of age, in force in the month in which the child is born. To access this bonus, beneficiaries must prove residence in the territory of the Republic of Chile for at least twenty continuous or discontinuous years, counted from the age of twenty; and, in any case, for at least four years of residence in the last five years immediately prior to the date of submission of the application. Women affiliated to the DL 3.500 system receive the bonus in the individual capitalisation account in the month following the month in which they reach 65 years of age. In the case of a woman who is a beneficiary of a PGU or a survivors' pension, the bonus or bonuses are added to her pension. A rate of return is applied to the total amount of each of the bonuses for each full month from the month of the birth of the respective child until the month in which the woman reaches the age of 65.
- i) In turn, the Security and Opportunities Subsystem comprises a series of programmes and monetary benefits:
 - Ethical Family Income (*Ingreso Ético Familiar – IEF*), comprising Basic Benefit (*Bono de Protección*), a cash transfer during the first six months of enrolment in the program; Supplementary Benefit (*Bono Base Familiar*) depending on the family income, for up to 24 months after enrolment; Health Benefit (*Bono Control del Niño Sano*), paid for up to 24 months (in addition to other subsidies or allowances); School Attendance Benefit (*Bono por Asistencia Escolar*), paid for up to 24 months (in addition to other subsidies or allowances); School Achievement Benefit (*Bono por Logro Escolar*), lump sum payment for each student in the top 15% of his/her cohort; reduced lump sum payment for students in the top 30% of his/her cohort;
 - Youth Employment Subsidy (*Subsidio al Empleo Joven – SEJ*), a cash transfer (of up to 20% of annual income in the previous year) depending on the insured's annual income in the previous year. In addition, the employer receives a subsidy of 50% of the worker's monthly benefit for 24 months.
 - Women's Employment Subsidy (*Bono al Trabajo de la Mujer – BTM*), with same amount and income limits than for SEJ, but paid for up to four years;

- Permanent Family Grant (*Aporte Familiar Permanente*), an income-tested cash transfer for each family member entitled to a family allowance or subsidy or maternity allowance or subsidy;
- Child Benefit (*Chile Crece Contigo*), a means-tested benefit including a baby kit, free kindergarten counselling and other services. Two other programs provide Early Childhood Education and Care for vulnerable families: Kindergartens administered by the National Council of Kindergartens (*Junta Nacional de Jardines Infantiles – JUNJI*) which used to cover about 92% of the target population (children from the bottom 60% of households, enrolled in the *Registro Social de Hogares*) and Kindergartens and day nurseries administered by the Integra Foundation.

8.4. Financing

Family and maternity subsidies are financed from the Family Subsidy National Fund. The family allowance, maternity allowance, maternity leave allowance (pre- and post-natal), post-natal parental leave and leave in the event of accident or serious illness of a minor child are financed from the Unified Fund for Family Benefits and Unemployment Benefits, including allowances for CAPREDENA and DIPRECA contributors. Both funds are financed exclusively by fiscal contributions that are set in the public sector budget law each year. For the year 2022, the fiscal contribution amounted to 690,791,975,000 CLP (ca. 780,556 EUR).

As part of the solidarity pension system, the child bonus is financed from State resources, through general taxation.

The budget of the Security and Opportunities Subsystem is set according to the resources that the Public Sector Budget Act provides annually for it. For the 2022 budget, 83,834,266,000 CLP (ca. 94,728 EUR) were earmarked for financing the benefits of the Subsystem.

8.5. Administration

Various public and private entities participate in the administration of the system depending on the benefit in question:

- a) The administration of the family and maternity allowance is the responsibility of the municipalities, to which the respective application is submitted, and who grant the benefit, but the payment of the allowance itself is made by the Social Security Institute. The supervision and oversight of the scheme is the responsibility of the Superintendency of Social Security.
- b) Medical leave for prenatal or postnatal leave is processed by the Commission for Preventive Medicine and Disability (COMPIN) or the Medical Leave Unit (*Unidad de Licencias Médicas*) that corresponds to the beneficiary's place of residence, which are

responsible for granting the appropriate benefits, and the *Subsecretaría de Salud Pública* is responsible for their payment.

Proof of dependant status for people who do not work and who do not contribute to any social security system must be provided to the respective municipality, for the purpose of collecting the family and maternity allowance. The dependant status of dependent or self-employed workers must be accredited by the IPS, for the purpose of collecting the family and maternity allowance.

The SUSESO is responsible for supervising and monitoring the observance of the provisions that regulate the Unified System of Family Benefits. The SUSESO is also responsible for the financial administration of both the Family Subsidy National Fund and Unified Fund of Family Benefits and Unemployment Subsidies, and for the formulation, execution and control of the development of the budget and the programme of the Fund. For these purposes, the SUSESO may issue regulations and instructions, which are binding for all public and private entities that participate in the administration of the system.

- c) The child bonus is administered by the ISP, which is responsible for processing applications for it and determining its amount. The AFP, the IPS or the INP participate in the payment of this benefit, depending on whether the beneficiary is a pensioner in the DL 3.500 system, a beneficiary of the PGU or a survivors' pension beneficiary.
- d) The administration of the Securities and Opportunities Subsystem is the responsibility of the Ministry of Social Development. For the implementation and operation of the Subsystem, the Ministry may enter into agreements with municipalities, with other administrative agencies or with private entities.

9. UNEMPLOYMENT INSURANCE SYSTEM

In 2002, Chile implemented new legislation for an innovative unemployment insurance scheme which it claimed to be the first genuine alternative to traditional unemployment systems. The new scheme provides a mandatory (contributory) unemployment insurance system based on individual savings accounts which is combined with a tax-financed supplementary Solidarity Fund financed by workers, employers and the State through general revenues. The system consists of the combination of two different components in one single institutional structure: first, an Individual Unemployment Account (*Cuenta Individual de Cesantía* – CIC) and, second, a Solidarity Unemployment Fund (*Fondo de Cesantía Solidario* – FCS). They are combined to finance unemployment benefits in case of unfair dismissal, yet involve relatively low public resources. Upon becoming unemployed, workers may withdraw the accumulated savings in their individual accounts. If these are insufficient to cover a five-month period of unemployment, they can receive a subsidy from the Solidarity Fund under certain conditions.

9.1. Regulation

The Chilean unemployment insurance system is regulated under Act 19.728 (14 May 2001). According to this Act, a person is unemployed if they have lost their job but are available for the labour market and are actively looking for work. Generally, the unemployed are only covered by social security to the extent that the cause of job loss is not attributable to them. In addition, the system offers information services through the National Job Board (*Bolsa Nacional de Empleo* – BNE) to help people find jobs and training opportunities. These services are under the supervision of the Ministry of Labour and Social Welfare, whose objective is to improve employability and facilitate the labour reintegration of unemployed insureds. The BNE also has a register of unemployed workers.

9.1. Coverage

The unemployment insurance system automatically covers wage and salaried workers in the private sector whose labour relationship is governed by the provisions of the Labour Code, for whom affiliation is mandatory as of 2 October 2002 (before that date, affiliation was voluntary). Public sector workers, military personnel, wage and salaried workers regulated by a statute other than the Labour Code, wage and salaried workers under 18 years of age, apprentices, pensioners (unless partially disabled), and the self-employed are excluded. People with more than one job in the private sector must be affiliated and contribute for all their jobs. For each, at the end of the contract, they will be entitled to benefits charged to their individual unemployment account. As per October 2020, domestic workers are covered by the unemployment insurance and have the same benefits as the rest of the affiliated workers.

9.2. Benefits

The main benefit provided by the system is a temporary substitute income financed from the affiliate's Individual Unemployment Account (*Cuenta Individual de Cesantía* – CIC) or the Solidarity Unemployment Fund (*Fondo de Cesantía Solidario* – FCS) when there is an insufficient balance in the individual account and other legal requirements are met. The substitute income from the individual account is paid monthly until the Individual Unemployment Account balance of the insured is depleted. CIC benefits have a degressive replacement rate of 70% down to 30% (for the seventh month and each subsequent monthly payment) of the previous remuneration. People with more than one job may exercise their right to unemployment benefits at the termination of each employment relationship. The unemployment insurance system's benefits are compatible with healthcare benefits, old-age and invalidity pensions, and severance packages.

To withdraw funds from the individual account, the employment relationship must have ended for any reason for termination provided for in the Labour Code, whether by resignation, mutual agreement, dismissal or liquidation of the company, according to the following rules:

- a) Workers with an unlimited contract must prove at least 12 continuous or discontinuous monthly contributions since their affiliation or since the last paycheck to which they were entitled. It should be noted that when an employee with an unlimited contract, who has been working for more than one year, is dismissed for redundancy, the employer is obliged to pay a severance compensation for years of service, with a limit of eleven years. In this case, the employer's contributions to the CIC are deducted from this compensation.
- b) Workers with a fixed-term contract or a contract for a specific job, work or service must show proof of at least six continuous or discontinuous monthly contributions.
- c) Retired workers can use the balance in their accounts, making a one-time transfer to their private bank accounts or transferring it to their AFP to increase the balance that will serve as the basis to finance their old-age pension in any of the legal modalities (see above section 5.3).
- d) In the case of partial disability pensions, retirees who continue to work remain affiliated with the insurance. Only old-age pensioners (even anticipated) and total disability pensioners can dispose of the balance in their CIC.
- e) In case of death, the balance is to be paid to the beneficiaries or heirs.

On the other hand, the Unemployment Solidarity Fund (FCS) ensures a substitute income for workers who have lost their jobs for a reason not attributable to them. Therefore, it is not an 'all-event' benefit as is the CIC, and the reasons for the termination of the employment relationship may not be due to the mere will or improper action of the insured. To receive benefits from the FCS, the member must be unemployed, be looking for a job, have paid contributions (at least 12 months), and have exhausted the balance of their CIC.

The FCS finances minimum as well as maximum benefits in decreasing amounts, with lower minimum and maximum benefits in case of fixed-term contracts than for permanent contracts, depending on the number of monthly instalments granted. For workers with a permanent contract, up to five monthly benefits with a decreasing replacement rate (from 70% down to 35% on the average monthly earnings in the last 12) months are granted, increasable by two more months if the employment situation in the market deteriorates, i.e., if the national unemployment rate in a four-year period is one percentage point higher than the unemployment rate in the previous four years. The maximum unemployment benefit for loss of a permanent contract is subject to an upper ceiling which is also degressive from the first to the fifth payment. For workers with a fixed-term contract or a contract for specific work or services and entitled to the FCS, the benefit is paid for three months with a decreasing replacement rate (of 50% to 35% of average monthly earnings in the last 12 months, and may be extended for another two months in the event of high unemployment).

FCS beneficiaries may take advantage of jobs offered by the Municipal Labour Intermediation Offices (*Oficinas Municipales de Información Laboral – OMIL*) and training scholarships by the National Employment Service (*Servicio Nacional de Capacitación y Empleo – SENCE*), in which case they will no longer receive the benefit. The same applies if they refuse a job offer from this office or a scholarship without cause. FCS beneficiaries are also entitled to family allowances on the terms they had when they lost their jobs, if they received them under income levels A and B (see section 5.2. in this paper). They are also entitled to guaranteed medical benefits according to their new income and to the continuation of their pensions. 10% of the monthly unemployment benefit is paid to the mandatory individual account for old-age, disability, and survivors' benefit as a solidarity supplement.

The unemployment system also includes an employment-related *unemployment assistance benefit* (*Subsidio de Cesantía*), whose beneficiaries are workers who are affiliated with any pension scheme, are unemployed, and are not eligible for unemployment insurance coverage. In other words, those who meet the following requirements are entitled to the subsidy:

- a) not being affiliated with unemployment insurance;
- b) having lost their job for reasons not attributable to them;
- c) registration in the unemployment benefit registry;
- d) being a member and contributor to the pension system and having paid 52 weeks of contributions in the last 24 months prior to applying for the benefit.

Private sector workers who have held the same job since a date prior to 2 October 2002 and have not voluntarily opted for unemployment insurance are also entitled to this subsidy. The subsidy consists of a rather low, degressive cash transfer lasting up to one year, as well as the right to a family allowance and medical benefits for the beneficiary and his family members.

9.3. Financing

The insurance is financed by a mandatory 3% contribution, which is distributed between workers and employers as follows, depending on the type of employment contract:

- a) Workers with a permanent contract, contribute 0.6% of their monthly taxable income to their mandatory individual account (plus an administrative fee of about 0.04% per month). Employers, on the other hand, contribute 2.4% of the worker's taxable remuneration, out of which 1.6% is paid to the CIC while the remaining 0.8% is paid to the FCS.
- b) Workers with fixed-term contracts do not contribute. In this case, the employer finances the total contribution of 3% of which 2.8% goes to the CIC and 0.2% to the FCS.

- c) Private household workers were covered by the unemployment insurance since 2020. In this case, the 3% contribution is also paid entirely by the employer, of which 2.2% goes to the CIC and 0.8% to the FCS.

It is not possible to make contributions in addition to those established by law.

The contributions are calculated on the monthly taxable remunerations of each employee, up to a maximum limit equivalent to 90 UF as of the last day of the month prior to payment. The ceiling is readjusted annually according to the variation of the Real Remuneration Index determined by the National Institute of Statistics (*Instituto Nacional de Estadísticas – INE*) between November of the preceding year and November of the year in which the readjustment is to be applied. The monthly taxable ceiling for calculating Unemployment Insurance contributions for the year 2023 is 122.6 UF.

Employers are responsible for withholding, declaring and paying both their workers' contributions and their own contributions to the respective insurance entity, which in this case is the Unemployment Fund Administrator (*Administradora de Fondos de Cesantía – AFC*), through a collection entity created by the AFPs called PREVIRED. The maximum contribution period is 11 years for each employment relationship maintained by the worker. Once this period is reached, the employer must continue to contribute to the FCS (0.8%) for as long as the employment contract remains in force. If a worker stays with the same employer for more than 11 years, the payments cease, as it is assumed that enough savings have been accumulated in the individual savings account to cover any period of unemployment.

The State also pays an annual contribution to the FCS of a total of 225,792 UTM²¹ which are paid in 12 monthly instalments of 18,816 UTM, through the Unified Family Allowances and Unemployment Fund. To ensure the sustainability of the insurance system, the SP and the Budget Office must carry out an evaluation every three years. In addition, if benefits exceed 20% of the value accumulated in the Fund during the previous month, benefits must be reduced proportionately to the total value of benefits that the FCS can finance.

9.4. Administration

The entity managing the unemployment insurance is the Chilean Unemployment Fund Management Company (*Sociedad Administradora de Fondos de Cesantía de Chile – AFC*), a private corporation that administers and provides unemployment-related benefits. AFC is the only institution empowered by the State to manage the unemployment insurance. Its functions include collecting contributions from employers, granting insurance benefits,

²¹ Monthly Tax Unit (Unidad Tributaria Mensual), a monthly indexed unit, corresponding to 758.388 CLP in August 2023.

answering questions and queries, resolving claims from workers and employers, and investing the resources in compliance with legal requirements.

The AFC receives a commission fee from the contributors, which is deducted from the contributions or the funds (0.49% annually, on the balance of the Solidarity Unemployment Funds). Only the accounts of workers who are effectively contributing with at least one employer are subject to the collection of commissions. The AFC cannot increase the commission, negotiate differentiated commissions, or charge higher amounts than those established in the Unemployment Fund management contract.

During the pandemic, Act 21.227 (27 July 2020) allowed extraordinary access to unemployment insurance resources when the competent authority ordered total or partial quarantines, resulting in suspension of the employment contract or reduction of working hours. Likewise, Act 21.263 (4 September 2020) temporarily relaxed eligibility requirements and increased the amount of unemployment insurance benefits, while Act 21.269 (21 September 2020) exceptionally extended insurance coverage to domestic workers.

The Unemployment Insurance Funds experience fluctuations, mainly due to the collection of contributions, the payment of benefits, the evolution of the profitability of the invested funds and the commission charged by AFC. The Unemployment Funds, both from the Individual Accounts and the Solidarity Unemployment Fund, are invested in the financial instruments established by law, guaranteeing profitability and controlling risks.²²

The control and supervision of the unemployment insurance is entrusted to the Superintendency of Pensions (*Superintendencia de Pensiones – SP*), while the Labour Directorate (*Dirección del Trabajo*) is responsible for ensuring compliance with employers' contribution obligations. There is also a Users' Commission, established in the same law, that reviews the criteria used by the AFC to manage Unemployment Funds, the procedures to ensure the payment of benefits and the information mechanisms for affiliates. It also reviews the operation of the National Job Board (BNE). Every year, the Users' Commission must issue a report on the results and conclusions of its observations.

The unemployment social assistance benefit is administered by the IPS and the Family Allowance Compensation Funds (*Cajas de Compensación y Asignación Familiar – CCAFs*). For public sector workers, each employer is responsible for paying the subsidy.

²² Investment is made in separate portfolios with different composition. The CIC Funds can only be invested in fixed income instruments. The Solidarity Fund can be invested in fixed and variable income instruments.

10. SOCIAL SECURITY OF SELF-EMPLOYED WORKERS

It is worth noting that in the last fifteen years significant efforts have been made to extend the coverage of social security benefits to the self-employed, who, according to recent estimates, account for one in four employed persons. The special concern for this group is shared across jurisdictions, given that they do not tend to contribute voluntarily to any pension system. In the Chilean case, moreover, those who do contribute voluntarily and for a larger proportion of their income are male workers with completed higher education, which implies that precisely those population segments that are already socially vulnerable will be less protected and will require greater State support in old age, disability and survival. Hence the need to devote a brief note to this scheme.

Act 20.255 (17 March 2008) stipulated that from 2012, self-employed workers who issue fee slips would begin to join the security system, with the aim of generating savings for their future old-age pension and accessing the same protection to which dependent workers are entitled. Thanks to this reform, self-employed workers can access the benefits of the social security system, such as the solidarity pension system, disability and survival insurance coverage, the right to a family allowance, affiliation to the compensation funds and benefits against the risks of accidents at work and occupational diseases. Thus, self-employed workers must contribute 10% of their gross income for social security, in addition to the AFP's administration fee (1.20% on average), 0.41% for Disability and Survivors' Insurance, as well as 7% for Health and 0.95% for Occupational Accidents and Occupational Diseases Insurance.

In order to lessen the impact on the net income of these workers, Act 21.133 (2 February 2019) envisaged a transition stage that will end in 2027. To this end, the percentage of monthly fees to be withheld will be increased over a period of nine years, from 10% to 17%, on a taxable base of 80% of gross annual income. Meanwhile, a gradual system will operate with respect to the taxable base on which workers will be able to contribute for health and pensions, from 5% to 100%, which they will be able to accept or not at the time of making their annual income tax return.

Only self-employed workers who receive fees during a calendar year (corresponding to article 42 N° 2 of the Income Tax Act) are obliged to pay contributions, except in the following cases:

- a) men over the age of 55 and women over the age of 50;
- b) persons affiliated to pension systems other than the AFP (IPS, CAPREDENA o DIPRECA);
- c) self-employed persons with an annual taxable income lower than four minimum monthly incomes;
- d) those who have contributed as dependants every month for the monthly taxable ceiling (75.7 UF);
- e) self-employed persons receiving an old-age or total invalidity pension.

The Internal Revenue Service (SII) is the entity in charge of annually determining the amount that self-employed workers must pay for contributions to the social security system, based on their declared income. For this purpose, during the first fortnight of May, the SII informs the General Treasury of the Republic (TGR) of the individualisation of the self-employed affiliates who must pay pension contributions and the amount to be paid. The TGR must pay the compulsory pension contribution determined in the Pension Fund of the AFP in which the self-employed worker is enrolled, so that this contribution can be imputed and recorded in the worker's individual capitalisation account as a compulsory contribution. If the amount withheld is insufficient for the total payment of the contributions, the member will be required to pay the missing amount directly.

Self-employed workers who pay compulsory or voluntary contributions must also pay a basic uniform contribution of 0.95% of their annual taxable earnings and an additional contribution whose amount depends on the activity and risk involved with a cap of 3.4% of the worker's annual taxable income, to finance their WAOD insurance.

11. CONCLUDING REMARKS

This report has presented a general overview of social security in Chile, with the purpose of identifying its main features, in terms of regulation, coverage, benefits, financing and administration. The analysis has been developed primarily on the basis of the legal regulation of the old-age, invalidity and survivors' pension system, the healthcare system, the occupational work accidents and occupational diseases insurance system, the family benefits system and the unemployment insurance system. However, where relevant, this report has also considered both the historical context and the relevant constitutional and international normative framework that have underpinned these systems. This report also contains some critical observations, as appropriate.

One of the main conclusions from this overview is that Pinochet's dictatorship had a strong influence on the original design features of the social insurance and welfare systems. This influence can be seen above all in the residual role initially attributed to the State in the provision of social security and health benefits – particularly in the old-age and invalidity pension systems and in the health care system – as well as in the understanding that public institutions should focus almost exclusively on the eradication of extreme poverty. Progressively, however, progress is being made towards a better balance between the public and private spheres, in the form of regulations that establish minimum coverage (e.g. the AUGE/GES benefits), oversight mechanisms and other guarantees for the population, so that they are not left entirely to market dynamics. Furthermore, efforts are being made to universalise certain benefits (e.g. the PGU), address gender gaps (e.g. the Child Bonus) and protect previously excluded groups (e.g. the self-employed).

Nevertheless, several challenges remain. On the one hand, in some cases, the contribution rate of certain economic actors does not meet international standards, if there is any contribution at all (e.g. the old-age and invalidity pension system). On the other hand, given the national context of widespread income inequality that has not been adequately addressed, the existing social insurance schemes in the country tend to reproduce and even amplify these inequalities. For instance, since many of the welfare benefits depend on the status of paid worker, whether dependent or self-employed, existing schemes tend to deepen pre-existing gender gaps or, at best, to reinforce female stereotypes associated with dependency and motherhood. More generally still, there are persistent sources of social inequality that generate public discontent and that have not yet been properly channelled through democratic means, such as the survival of privileged schemes (e.g. DIPRECA and CAPREDENA).

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