Pension system: Principles in the new constitution

I. Historical context

In Chile, laws, policies and social protection measures known as the Pension System have been established. This system helps people in situations of old age, unemployment, illness, disability, work accidents, maternity or loss of family support, when they cannot generate income.

Until 1980, Chile had a pay-as-you-go pension system, where active workers financed the pensions of those who had already retired. Then, in 1980, a system based on "individual capitalization" was established. In this system, people contribute during their working life and those contributions become their pension. Currently, the worker's contribution is 10% of their income, which is administered by an Association of Pension Funds (AFP) that charges a monthly administration fee (0.47% - 1.47%).

II. Differences between the old and current system

The main difference between the mandatory individual capitalization system in a pension fund administrator (AFP) and the old or pay-as-you-go system is the form of pension financing.

In the pay-as-you-go system, the contributions made by active workers, in addition to the contributions made by the State, go to a common fund with which the pension of each retiree is financed. In summary, in the pay-as-you-go system, the contributions of active workers finance the pensions of each retiree.

In the current system, however, each member has an individual account where their pension contributions are deposited, which are managed by the AFPs to obtain profitability. Ultimately, pensions come from these funds and investment profits. This creates a provisional balance that then becomes the worker's pension upon retirement. Since these funds are part of the worker's assets, they are also inheritable.

III. Affiliation with AFP

When someone starts a formal job they automatically join an AFP for the first 24 months. After that period, the worker can change AFP at any time at no cost. The AFPs collect contributions and invest them in five types of Funds (multi-funds) chosen by the worker according to their preferred risk and profitability.

IV. New constitution

Social security includes constitutional, legal and other rules that make it up. The current constitution establishes the following in its content:

*"Article 19.- The Constitution assures all people:*

*18º.- The right to social security.*

*The laws that regulate the exercise of this right will require a qualified quorum.*

*The State's action will be aimed at guaranteeing access for all inhabitants to the enjoyment of uniform basic benefits, whether they are granted through public or private institutions. The law may establish mandatory contributions.*

*The State will supervise the adequate exercise of the right to social security.”*

In the draft of the new constitution drafted by the Expert Commission, in its article 16, paragraph 17, social security is addressed and it is established that the State guarantees people their right to social security, allowing mandatory contributions to be granted to institutions. private or public. It is not specified who will be the owners of the accumulated contribution funds, whether it will correspond to the worker or the State, nor the percentage of these contributions, nor whether they will be inheritable.

*"Article 16. The Constitution assures all people:*

*17) The right to social security.*

*a) The State guarantees access to basic and uniform benefits, established by law, whether granted through public or private institutions, to protect people from contingencies such as old age, disability, death, illness, pregnancy, maternity , paternity, unemployment, accidents and work-related illnesses, without prejudice to other contingencies or circumstances established by law. The law may establish mandatory contributions.*

*b) The resources intended to finance social security may only be used for the financing and administration of its benefits.*

*c) The State will regulate and supervise the adequate exercise of the right to social security, in accordance with the provisions of the law.*

*d) The laws that regulate the exercise of this right will require a qualified quorum."*

In summary, the pension system in Chile has evolved due to changes in work, longevity and female inclusion. Measures were proposed to address the insufficiency of savings, such as the solidarity pillar, non-contributory contributions and exemption from contributions. Voluntary savings and early contributions were encouraged. These changes in Social Security were implemented from 2008 until today.

V. Options for deliberation

Below are 3 possibilities of action that the Constitutional Council can choose. The list below is not exhaustive and considers only what was proposed by the constituent councilors through amendments. You may also have other ideas and you are free to raise them in the deliberative meeting.

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| Proposed action | Explanation | Potential unresolved effects |
| Approve the text proposed by the Expert Commission without amendments. | The experts' proposal enables both the State and the private sector to eventually manage the funds destined for pensions, leaving a wide margin for Congress to adopt a specific model. The proposal allows mandatory contributions to be established through law that can only be used to pay old-age pensions, disability pensions, work accidents, among other contingencies that are expressly indicated. It will be Congress that will determine the destination of the contributions, being able to choose a system where all of these funds go to an individual account or to a collective fund. | Who will be the owners of the funds and where will they go when the contributor dies?  What happens to people who contributed for a short time? |
| Chile Unidos amendment that adds a new literal:  “Social security is based on the principles of universality, solidarity, integrality, equality, sufficiency, participation, sustainability and opportunity.” | The amendment proposed by this group of constituent councilors also leaves Congress a margin of decision, however, it restricts said choice to systems that comply with the principles referred to therein. For example, the principle of solidarity implies that part of the resources obtained from contributions will be used to finance contingencies of people other than the contributor. An example of a solidarity system is the Government proposal that is currently being discussed in Congress, where a part of the 6% of the worker's additional contribution will be used to complement the pensions of those who have already retired. | How are the eight principles that will govern the system defined?  Who will own the funds? |
| Amendment of the Republican Party and Chile Seguro that adds a new literal:  “The State must respect the right of contributors to freely choose the institution that manages their pension savings from mandatory and voluntary contributions and the funds generated, guaranteeing their ownership, as well as their inheritability. In no case may the funds saved and generated be appropriated, seized, expropriated or dispossessed by the State through any mechanism. | The amendment proposed by this group of constituent councilors contemplates the right of ownership over pension contributions. For this reason, although it leaves Congress a margin of choice, the implementation of a pay-as-you-go system would be incompatible with this rule, since in this type of system the contributions are incorporated into a common fund, in such a way that the contributor does not has ownership of its funds nor are they inheritable. | What happens to people who contributed for a short time?  What to do with the increasing costs of the solidarity pillar? |

**Glossary:**

Constitutional Council: Body made up of 50 people elected by citizens, which has the mission of drafting the constitutional project that will be plebiscited on December 17, 2023.

Expert Commission: Body made up of 24 people elected by the National Congress, which drafted the preliminary draft of the new constitution that serves as a basis for the work of the Constitutional Council.

Preliminary draft: Document drawn up by the Expert Commission and that will be the basis with which the members of the Constitutional Council will work to prepare the draft of the new constitution that will be submitted to a plebiscite on December 17, 2023.

Chile Vamos/Chile Seguro: Alliance of right-wing parties composed of the UDI, RN and Evópoli that have 11 members in the Constitutional Council.

Republicans: Right-wing political party that has 22 members in the Constitutional Council.

United Chile: Alliance of left-wing parties that represent the ruling party and have 17 members of the Constitutional Council.