SOCIAL SECURITY
Contributory Scheme
(Law 12/2016, 14th November)

May 2017
Social Security is a Right

Social Security is a Fundamental Human Right:

“Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

(Under Universal Declaration of Human Rights, Article 22)

Social Security is a guaranteed right in the Constitution of the Democratic Republic of Timor-Leste:

1. All citizens have the right to security and social assistance, in accordance with the law.
2. The State promotes, to the extent of national availability, the organization of a Social security system.”

(Constitution of the Democratic Republic of Timor-Leste, Article 56)
Social Protection and Social Security

Social Protection is a SYSTEM, composed by 3 main components:

- Social Security
  - Contributory Social Security
  - Non-contributory Social Security
- Social Assistance
- Social Services
## Social Protection and Social Security

<table>
<thead>
<tr>
<th>Components of Social Protection</th>
<th>Goal</th>
<th>Financing</th>
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</table>
| **Contributory Social Security** | • Protecting workers that contribute: substitute income derived from work in certain situations of loss  
• Prevent Poverty  
• Enhancing the economic activity, maintaining consumption levels | Social contributions (workers and employers) |
| Social Security of Citizenship | • Universally protecting citizens that are not covered by the contributory scheme or whose contributions are insufficient: guarantee access to vital subsistence minimums  
• Combating Poverty | General state budget |
| Social Assistance | • Protect citizens in a situation of need / vulnerability / poverty by granting cash or in kind support, often by checking conditions of need  
• Combating Poverty | General state budget |
| Social Services | • Provide essential services to the general population | General state budget |
New Contributory Social Security Scheme

• A new logic for Timor-Leste's Social Protection programs
  • For the first time since the Restoration of Independence, rights are directly linked to obligations.
New Contributory Social Security Scheme

• Active workers and Employers contribute to a "common portfolio"
• This money is used to:
  • Pay the subsidies of those who are not capable of working (same generation)
  • Pay the pensions of the previous generation workers
• The surplus is placed in a Reserve Fund

Current generation benefits
Pensions of previous generation
RESERVE FOUND
Goals

• Protecting workers against social risks throughout their lives by replacing income derived from work in situations where it is lost:
  • Ensure that, at present, workers who are unable to work because they are on leave (maternity, for example) continue to have an income
  • Ensure that, in the future, when workers leave work, they continue to earn an income (pension) to maintain their levels of consumption and decent living standards
• Improving economic activity through the circulation of money and the maintenance of consumption levels - essential to business activity
Impacts of Social Security on Economic Activity

• Replacing and redistributing income, allowing to maintain or even increase consumption:
  • Allows the creation (and expansion) of demand for local businesses
  • International experience, which includes Timor-Leste, shows that people with lower incomes use a great deal of theirs for consumption (greater propensity to consume) of local products mostly

• Operating as an automatic stabilizer
  • When the economy is slowing down (crisis) it has a counter-cycle effect on the economy because it encourages business activities

• Allowing economic agents to take more risks
Impacts of Social Security on Economic Activity

- Allowing companies to renew their staff:
  - It has a positive impact on the employment of young professionals

- Impacting positively on the motivation of workers and on the human capital development

According to data presented by the ILO, the experience in Vietnam:
- Companies (SMEs) that increased social security coverage by 10% experienced:
  - An increase in revenues per employee between 1.1-2.6%
  - And an increase in overall profits between 1.3-3.0%
  - Companies tend to stay longer in business

  However the improvement is not automatic, it takes at least one year
The contributory rate that the employers pay to the Social Security represents an immediate cost: it has an impact on labor costs.

But this cost is actually an investment:

- Positive impacts on the economy (cited above)
- The employers cease paying maternity and paternity benefits, as well as other benefits concerning partial disability or full impairment due to professional reasons: in fact, with social security the effort is now shared between employers and workers.
Impacts of Social Security on Economic Activity


- Only 10% of decisions are influenced by labor costs
- The factors that are most important in decisions are:
  
  * Infrastructure and logistics
  * Qualification of labor
  * Work productivity and work ethic
  * Domestic market growth potential
  * Access to credit
  * Bureaucracy
  * Functioning of justice
  * Corruption
New Contributory Social Security Scheme

- It will be managed by the **Social Security**, based on its own budget (**Social Security Budget**), independent of the National State Budget (**NSB/OGE**)  
- Contributions received are used to pay benefits only: **DO NOT ENTER NSB (OGE)**  
- It is based on the following basic principles:
  - **Repartition and Social Justice**: solidarity between generations and within the same generation - risks are shared among all; There is no individual risk taking  
  - **Public**: the State takes political responsibility  
  - **Unique**: equal for everyone, in any branch or sector of activity  
  - **Contributory and self-financed**: benefits are paid exclusively with contributions from workers and their employers
Who is covered by the new Scheme?

Mandatory for:
- All of those who have a fixed-term or indeterminate-term contract under the Labor Law - **PRIVATE SECTOR**
- All public employees, civil servants, political appointments, fixed-term contracts, advisors, etc.) - **PUBLIC SECTOR**
- Employers

Optional for:
- Individual entrepreneurs
- Self-employed
- Managers and administrators of companies
- Domestic service workers
What about foreign workers?

• Foreign workers who work temporarily in Timor-Leste **are also covered** by the social security system.

• However, **if they make proof they are covered by and contributed to another system in another country, they are exempt for a period of 10 years.**
Entry into force of the new scheme

August 1, 2017

**MANDATORY:**
- a) State and state workers
- b) Private Employers with +100 workers and their workers

**VOLUNTARY:**
- a) Private EE with fewer than 100 workers and their workers
- b) Employees optionally covered by the new SS scheme

January 1, 2018

**MANDATORY:**
- All workers and Employers are obligatorily covered by the new SS scheme

**VOLUNTARY:**
- All workers optionally covered by the new SS scheme
What are the obligations?

**Employer**

- Enroll the institution and its workers *(standard forms or online)*
- Providing and updating information *(standard forms or online)*
- Submit Monthly Remuneration Statements *(standard forms or online)*
- Pay monthly contributions *(cash or bank transfer)*

**Worker**

- Meet warranty periods in order to access the benefits
- Provide and update personal information
- Deliver documents
- Submit requests for benefits *(standard forms or online)*
How is the contribution to be paid calculated?

Contributory incidence basis \( \times \) Contributory rate = Contribution to pay
What is the basis of contributory incidence?

Basic remuneration (gross salary) +

Other permanent monthly remunerations added to the gross salary

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<tr>
<th>Includes</th>
<th>Does not include</th>
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<tbody>
<tr>
<td>13th month, annual subsidy</td>
<td>Cost allowances <em>(per diem)</em></td>
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<td>Supplements paid for night work, shift arrangements or remote</td>
<td>overtime</td>
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<td>locations</td>
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<td>Supplements for special professional careers</td>
<td>Allowance for food</td>
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<td>Other extra subsidies</td>
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</table>
What is the contributory rate?

Employers 6% + Workers 4% = 10% Contributory Rate

Until 2019, the tax rate will remain at 10%.

From 2020, the contributory rate can be revised, according to an actuarial study, in order to always guarantee the sustainability of the SS scheme.
Example 1:

- Worker with Gross Monthly Salary of **115 USD**, without other supplements:
- Contributory basis incidence: **115 USD**
- Employee Entity contributes with: **USD 6.90 / month** (= USD 115 x 6%)
- Worker contributes: **$ 4.60 / month** (= 115 USD x 4%)
- The Employee submits to Social Security a total of **$ 11.50 / month** (= $ 6.90 + $ 4.60)
- The Worker receives the net monthly salary of **110.40 USD** (= 115 USD - 4.60 USD)
Contribution payable: Examples

Example 2:
- Worker with Gross Monthly Salary of 350 USD, plus a special career supplement (monthly and permanent) of 150 USD:
- Contributory basis incidence: 500 USD (= 350 USD + 150 USD)
- Employee Entity contributes: US $ 30 / month (= US $ 500 x 6%)
- Worker contributes: 20 USD / month (= 500 USD x 4%)
- The Employer Envoys to Social Security a total of 50 USD / month (= 30 USD + 20 USD)
- The Worker receives the net monthly salary of 480 USD (= 500 USD - 20 USD)
Transitory Norm: PRIVATE SECTOR

Until 2026, the employers from the private sector with 10 or fewer workers, provided that at least 60% of these are nationals, are entitled to pay only part of the % of the contributory rate.

The reduction of the payment is as follows:

• 70% in 2017 and 2018
• 50% in 2019 and 2020
• 30% in 2021 and 2022
• 20% in 2023 and 2024
• 10% in 2025 and 2026

For example, in 2017 these Employers should pay 6% of the contribution rate, in relation to the salary of each of the workers in their service. However, they will pay only 1.8%, or 30% of the 6%, because they benefit from a 70% reduction.

For a worker who receives USD 150, Employers should pay the SS 9 USD (= 6% x 150). However, they will only pay USD 2.7 (= 30% x 6% x 150)
Obligations: Deadlines

The Employer pays the salaries of August to the workers and retains 4%

The SS accepts the DR and Payment guide

Until 31 August/2017
Employer and workers’ Registration

Until 10 September/2017
DR (Monthly Remuneration Statements) delivery for the month August/2017

10 to 20 September/2017
Payment of Contributions (10%) concerning August / 2017

The SS assigns to each Employer and to each worker a NISS (Identification Number of Social Security - for life)
What are the rights of the workers?

Protection against a set of defined eventualities, which when respected the conditions, give the worker access to:

1) Maternity benefit
2) Paternity benefit
3) Adoption benefit
4) Clinical risk benefit during pregnancy
5) Pregnancy discontinuation benefit
6) Death grant
7) Survivor Pension
8) Partial disability Pension
9) Full Impairment/Disability Pension
10) Old Age Pension
11) Work injury benefit
Old Age Pension

**Nature:** Pension paid in cash every month (13 months)

**Attribution Terms:**

- Enrollment in the general scheme;
- Be 60 years of age or older;
- Fulfillment term warranty:
  - **2017 to 2022:** 60 months (5 years)
  - **2023 to 2031:** progressive increase, with annual increase of 6 months
  - **From 2032:** 120 months (10 years)
- Application Submission
Disability Pension

**Nature:** Pension paid in cash every month (13 months)

**Attribution Terms:**
- Enrollment in the general scheme;
- To be in a situation of partial or full disability, duly certified;
- Not receiving or meeting the necessary criteria for receiving the old age pension;
- Fulfillment term warranty:
  - **2017:** 12 months (1 year)
  - **2018 to 2024:** progressive increase, with annual increase of 6 months
  - **As of 2025:** 60 months (5 years)
- Application Submission
Calculation of Old Age and Disability Pensions

Calculation Formula:

\[ P = R \times \frac{N}{360} \]

P: Monthly pension amount
R: Remuneration of reference \((\text{average of total remuneration recorded and revalued, of the best 120 months of the entire contributory career})\)
N: Number of months with remuneration record \((\text{maximum limit: 360})\)
360: Number of months corresponding to a full contributory career \((30 \text{ years})\)

The R (remuneration of reference used as the basis for calculating pensions) and P (pensions) must be updated / revalued periodically, following the terms defined by a joint dispatch drafted by the MoF and the MSS.
Calculation of Old Age and Disability Pensions

\[ P = R \times \frac{N}{360} \]

**Example 1:**
R = 115 USD  
N = 180 months (15 years)

Monthly pension = 115 USD \times \frac{180}{360} = 57.5 USD

**Example 2:**
R = 115 USD  
N = 240 months (20 years)

Monthly Pension = 115 USD \times \frac{240}{360} = 76.67 USD

**Example 3:**
R = 350 USD  
N = 180 months (15 years)

Monthly Pension = 350 USD \times \frac{180}{360} = 175 USD

**Example 4:**
R = 350 USD  
N = 240 months (20 years)

Monthly Pension = 350 USD \times \frac{240}{360} = 233.33 USD
Transitory Norm: PRIVATE SECTOR

- **55 years or older workers** that are covered by the Labor Law at the date of entry into force of this scheme, are granted a **minimum pension**, which is **at least 1.5 times the value of the SAI** (i.e. 45 USD), even if the formula calculating their pensions results in a lower value.

For this, these workers have to contribute a minimum period:

- 55 years old workers: at least 5 years of contributions
- 56 years old workers: at least 4 years of contributions
- 57 years old workers: at least 3 years of contributions
- 58 years old workers: at least 2 years of contributions
- 59 years old workers: at least 1 year of contributions
Calculation of contribution period

- Example 1:

- 3 years
- 6 years
- 4 years
- 10 years
- 5 years
- 2 years

6 months
6 months
4 months
2 years

- Private Employer Work
- Public function work
- Informal Work

30 years of contribution
Calculation of contribution period

- **Example 2:**

  - 2 years
  - 3 years
  - 8 years
  - 7 years

  3 years
  6 months
  10 years

  60 years

  - Private Employer Work
  - Public function work
  - Informal Work

20 years of contribution
Survival Pension

**Nature:** Pension paid in cash every month (13 months)

**Attribution Terms:**
- Enrollment in the general scheme;
- Surviving spouse, or person with whom the beneficiary has lived in a similar situation for over 2 years (not separated); Or Descendants (biological and adopted children), even if unborn, and those protected by the beneficiary;
- Fulfillment term warranty:
  - **In 2017:** 12 months
  - **2018 to 2024:** progressive increase, with annual increase of 6 months
  - **As of 2025:** 60 months (5 years)
- Application Submission
Survival Pension

Conditions for the Attribution and Duration of the Pension:

• Surviving spouse or person with whom the beneficiary has lived in a similar situation for more than 2 years:
  • Age up to 45 years: Pension is paid for 1 year
  • Age 45-59 years: Pension is paid for 2 years
  • Age 60 or + years: pension is for life

• Descendants (biological and adopted children), although unborn, and those protected by the beneficiary:
  • Age up to 18 years: Pension is paid until age 18, provided school attendance is verified
  • Age 18-24 years: Pension is paid up to age 24, provided that school attendance and completion of school years are verified
Survival Pension Calculation

Calculation Formula:

\[ P = R \times \frac{N}{360} \]

And apply \( a\% \) on the result of the above formula:

a) 65%: for surviving spouse (or person in a similar situation), without descendants or guardians of the couple;

b) 100% for the surviving spouse (or person in an analogous situation) and descendants or guardians of the couple;

c) 100% for descendants or guardians of the beneficiary, if there is no surviving spouse;

d) 100% for the surviving spouse (or person in a similar situation) and descendants or guardians who are not descendants or guardians of the surviving spouse.
Survival Pension Calculation

\[ P = R \times \frac{N}{360} \]

**Example 1:**
R = 200 USD  
N = 180 months (15 years)  
P = 200 USD \times 180/360 = 100 USD  
Household:  
• Woman of the deceased, 50 years  
• 2 children of the couple (15 and 17 years old), attend school  
Amount of Monthly Pension to receive:  
• % Applied: 100%  
• Value: 100 USD (= P)  
• Duration: until the youngest child turns 24, as long as they have school use

**Example 2:**
R = 200 USD  
N = 180 months (15 years)  
P = 200 USD \times 180/360 = 100 USD  
Household:  
• Woman of the deceased, 50 years  
• No children or guardians of the deceased beneficiary  
Amount of Monthly Pension to receive:  
• % Applied: 65%  
• Value: 65 USD (=P)  
• Duration: for 2 years
Death grant

**Nature:** Death grant (one time only);

**Attribution Terms:**
- Enrollment in the general scheme;
- Surviving spouse, or person with whom the beneficiary has lived in a similar situation for more than 2 years, not separated; Or Descendants (biological and adopted children), even if unborn, and those protected by the beneficiary;
- There is no guarantee period
- Submission of the application
Funeral Expenses Refund

**Nature:** Reimbursement of funeral expenses (one time only);

**Attribution Terms:**

- Enrollment in the general scheme;
- There is no one entitled to the death benefit;
- There is no warranty period;
- Proof of having incurred in the beneficiary's funeral expenses;
- Submission of the application.
Calculation: Death Grant/ Refund Funeral Expenses

Calculation Formula:

3 x R

R = Average of the total remunerations recorded in the 120 best months of the entire contribution career (remuneration of reference that served as the basis for calculating pensions)

In the case of reimbursement of Funeral expenses, the amount to be reimbursed has a maximum limit of 3 x R.
## Paternity and Maternity Benefits

<table>
<thead>
<tr>
<th>Clinical risk benefit during pregnancy</th>
<th>Pregnancy termination benefit</th>
<th>Maternity benefit</th>
<th>Paternity benefit</th>
<th>Adoption benefit</th>
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<tbody>
<tr>
<td>When there is a medical risk, medically certified, for the pregnant or the unborn child, which impedes the exercise of functions</td>
<td>In situations of termination of pregnancy, medically certified, which impedes the exercise of functions</td>
<td>Granted to the working mother during the period of incapacitation to perform duties</td>
<td>Granted to the father, during the period in which he does not work</td>
<td>Granted to the adopters under 15 years of age, in situations that impede the exercise of functions</td>
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<tr>
<td>Time needed to prevent risk, medically determined (Labour Law, article 59)</td>
<td>4 weeks (Labour Law, article 59)</td>
<td>• 65 working days (40 post childbirth) (Civil Service, article 15 DL 21/2011); • 12 weeks (10 post childbirth) (Labour Law, article 59)</td>
<td>• 3 working days (Civil Service, article 16 DL 21/2011); • 5 working days (Labour Law, article 60)</td>
<td>Equivalent to maternity</td>
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</table>
Paternity and Maternity Benefits

**Attribution Terms:**

- Enrollment in the general scheme;
- Using the licenses entitled according to the Labor Law or the Civil Service Statute;
- Medical certification;
- Fulfillment term warranty:
  - 6 months of contributions in the last 12 months
- Submission of the application
Paternity and Maternity Benefits

Calculation Formula:

Daily allowance = $R/180$ days

$R =$ Total salaries declared to the SS in the first 6 months of the last 8 months

Example:
- monthly salary: 200 USD; Average daily salary: 200 USD/30 days = 6.67 USD
- $R = 1200 USD$ (=200 USD x 6 months)
- Daily allowance: 6.67 USD (= $R/180$ days = 1.200 USD/180)

Daily amount of the allowance corresponds to 100% of the average daily wage calculated on the basis of the reference remuneration.
### Accumulation of Benefits

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<tr>
<th>Benefit</th>
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<td><strong>1) Maternity benefit</strong></td>
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<td><strong>2) Paternity benefit</strong></td>
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<td><strong>3) Adoption benefit</strong></td>
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<td><strong>4) Clinical risk benefit during pregnancy</strong></td>
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<td><strong>5) Abortion benefit</strong></td>
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<td><strong>6) Death grant</strong></td>
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<td><strong>7) Survival Pension</strong></td>
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<td><strong>8) Full Disability Pension</strong></td>
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<td><strong>9) Partial disability Pension</strong></td>
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<td><strong>11) Earnings from Labor</strong></td>
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</table>
Non-compliance and Debt

Failure to comply with the contributory obligation

Benefits unduly paid

Non-compliance and other legal obligations

Debt to Social Security

- Outstanding capital
- Interest rate on debt (1%)

Invalid collection

Coercive Collection (Courts)
- Civil debt enforcement
- Fiscal enforcement

Debt settlement

Regular collection

Infractions

Fines
Non-compliance and Contributory Obligation

When employers do not pay (or pay late) the contributions

**Ways of regular collection of debts**

1. Voluntary payment (in one or several installments)
2. Credit Compensation
3. Assumption of third party’s debt
4. Transmission of debt and subrogation
5. Retention of debt by public entities:
   • For subsidies / payments of more than 5 thousand USD, a declaration stating the situation with Social Security is required
   • If there is debt, the public entity retains up to 25% of the amount of the subsidy / payment, and delivers this amount to the SS
   • Exceptions: SEPFOPE grants that aim to create or maintain jobs; Support in case of natural disasters
Benefits unduly paid

Benefits unduly paid:

• Benefits paid where the conditions required for the award of such benefits are not met
• Benefits paid in excess of the due amount
• The benefits paid after the conditions of attribution cease
• The payments paid to a third person, without legitimacy

Forms of collection:

1. Voluntary and direct payment (in one or several installments)
2. Compensation with other due benefits
Failure to comply with legal obligations

When the various legal obligations to which Employers and workers are bound are not fulfilled:

1. Obligations concerning the enrollment to the social security scheme (registration)
2. Obligations concerning the contributory legal relationship (Remuneration Statements and payment of contributions)
3. Legal obligations leading to the granting of benefits (providing information to the social security; undue accumulation of benefits)

Infractions: Fines
### Infractions Scheme

#### Infractions types

<table>
<thead>
<tr>
<th>Culpa (negligência, dolo)</th>
<th>Valores máximos e mínimos das coimas</th>
<th>fatores que agravam (dentro dos limites)</th>
<th>fator que atenua (dentro dos limites)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leve</td>
<td>negligencia</td>
<td>20 USD a 100 USD</td>
<td>reincidente; tempo/ataroso</td>
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<tr>
<td></td>
<td>dolo</td>
<td>60 USD a 200 USD</td>
<td>tempo/ataroso; número de trabalhadores da EE (menos de 10)</td>
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<tr>
<td>Grave</td>
<td>negligencia</td>
<td>200 USD a 1.000 USD</td>
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<td>dolo</td>
<td>600 USD a 2.000 USD</td>
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<td>Muito grave</td>
<td>negligencia</td>
<td>1.000 USD a 4.000 USD</td>
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<td>dolo</td>
<td>3.000 USD a 10.000 USD</td>
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</tbody>
</table>

Fines are reduced by half in the case of Employers with less than 10 employees.
Infringement proceedings

- Infractions are checked by:
  - The SS services, by analyzing the database: issue a "participation"
  - Labor Inspectors (IGT Statutes), during their inspections: issue “report” and deliver to the SS

- When there is a suspicion of an infraction (through the "participations" and "reports" received by the SS), the SS monitors the situation, calculates the amount owed and notifies the IGT for collecting the fines

- The Labor Inspectors collects the fines

- Fines collected are Social Security Budget revenues