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AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

Editorial

In a few days a mythical page will be turned. We will leave the XXth Century and the second millennium to step into an era that we expect to be really different after centuries of wars. Indeed, local wars then regional wars and finally world wars generated a huge number of victims and a world in ruins.

Certain people with consciousness, willingness and courage refused to accept the fatality of such disasters while populations were frightened that barbarity might come again. This led to the only reasonable choice able to maintain the old continent in peace and harmony.

The fathers of Europe had the ambition to create an area of peace over a wide territory which had been a battle field over centuries.

Today we are fighting in order to fully achieve the Union and to extend it soon to 26 countries. This has not been won yet since there are significant obstacles as we could see at the Nice summit.

However the European construction is progressing but it is more and more obvious that we are lacking a common ambitious perspective shared by all Member States.

Our fathers had the founding ambition. For our children, our generation must achieve the Union and provide it with democratic institutions. This is the necessary condition to ensure a smooth running and to make all individuals feel at home wherever they are in the European area.

We must gather strength to achieve this ambition and to concretise this new era that we all call for.

Thierry Christophoul

National updates

GERMANY

Transfer agreement between VBL and the European Communities

The right of free movement of persons within the EU is linked to the elimination of obstacles to workers' mobility. Directive EC 98/49 of 29 June 1998 (also called the free movement directive) introduced some measures intended to safeguard accrued pension rights.
However this directive does not give any answer to a question that cannot be easily solved: the problem of portability for a worker who takes up a new job in another Member State. The way to operate such transfers must be settled through voluntary bilateral agreements between institutions.

For salaried workers in the German public sector, previously covered by VBL, who join the European Communities, such an agreement was reached between the Communities and VBL at the beginning of the year. This allows workers who have built up supplementary pension rights within VBL, to transfer the value of their pension rights to the Community Staff Pension Scheme when they become European civil servants. However this transfer is only possible if the basic pension rights of the statutory pension scheme (that VBL is supposed to complete) are also transferred to the European scheme. This latter scheme will then convert the transferred value into pensionable years under its own rules.

This transfer of accrued pension rights is subject to Article 11 of Annex VIII of the European Staff Regulations. This article provides for the opportunity to transfer pension rights accrued by a European civil servant to a national pension scheme (Art 11,indent 1) as well as the transfer of pension rights accrued in a national scheme to the Community staff pension scheme (Art 11 indent 2) under certain conditions. For Community staff placed under another status, particular regulations refer to the civil servant status.
Although the European Staff Regulations apply to all Member States, their transposition has taken a long time because national regulations had to be amended and, in some instances, new legal provisions had to be brought into national schemes. Thus the agreement on portability between the German Republic and the European Communities regulating the implementation of Article 11 of Annex VIII of the European Staff Regulations was enforced only in 1994.
In spite of long-standing contacts between VBL and the European Communities, the transfer of pension rights accrued within the supplementary pension scheme was merely hypothetical from this time . The reason for such delay is the interconnection between the legal scheme benefits and the benefits of the supplementary scheme which together form an integrated

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There are three ways to transfer pension rights to the Community Staff Pension Scheme :

- The transfer of actuarial equivalent
- The transfer of surrender value (also called « sums repaid » or redemption value) this means that the contributions are transferred
- The transfer of the mathematical provision (for funded schemes)

Agreements between national schemes and the Pension Scheme of the European Communities can also rely on the principle of subrogation

VBL has its own Internet site
www.vbl.de

pension. As the supplementary pension of the public sector employees is supposed to complement the general scheme's benefits, up to the level of the civil servants' pensions, the transfer of the supplementary pension rights into the Community Staff Pension Scheme is possible only if pension rights accrued within the basic scheme are also transferred.

In addition, it has been necessary to amend the part of legislation dealing with the improvement of occupational pension provisions relating to public sector supplementary pensions. This amendment was introduced in 1998.

During the negotiation on this agreement, some fundamental questions had to be clarified and it was necessary to consider various options. Thus, the transfer value had to be defined, since Article 11 (2) of the European Staff Regulations notes the difference between the actuarial equivalent and the surrender value. It was also necessary to take into account what would happen when a European civil servant would return to the German public service before retirement age. This alternative could have serious implications, and employees must be well informed as to the effect of a transfer in their particular circumstances .

Under the agreement, the amount to be transferred is the value of pension rights calculated under the same rules as a lump sum. In fact since 1979 the supplementary pension of VBL has been financed according to a partially reserved pay-as-you-go system. As there is no full funding it was not possible for VBL to calculate a mathematical provision. To calculate the transfer value a process defining the factors for the calculation of an actuarial equivalent had to be established. The transfer value is obtained by multiplying the annual amount of the accrued rights by an actuarial factor relating to the employee's age at the moment of the transfer.

In the first weeks that followed the enforcement of this agreement, it appeared that many applicants for transfers had not fulfilled the 60 month qualifying period *(or vesting period)* required by VBL. As the agreement only provides for the transfer of cash amount and not for the transfer of periods of membership, it is not possible to operate any transfer if the qualifying period has not been completed.

When all conditions are met, the applicant must urgently consider the following possible consequences.
In principle, the transfer can be operated from VBL towards the Community Staff Pension Scheme and not the other way round.
The supplementary pension in the German public sector is involved in an integrated system It is therefore subject to the following principle : no supplementary pension without any corresponding basic pension. Thus a former employee of the German public service can only rejoin VBL if his pension rights accrued within the Community Staff Pension Scheme are re-transferred back to the German basic scheme. The transfer back to VBL is not allowed since the membership ends with the payment of the cash equivalent. The value of the rights accrued within VBL is integrated to the rights accrued within the Community Staff Pension Scheme, which may be re-transferred in the case of a return to the basic scheme. At this time membership would begin afresh within VBL and a new qualifying period will be required.
Because of this, the agreement between the European Communities and VBL provides for the following process. When an employee applies for a transfer through his employer, VBL notifies the amount of the cash equivalent to the European institution. This institution calculates the pension rights obtained within the Community Staff Pension Scheme with this amount. The transfer of cash will be carried out only with the employees' approval. He will then decide whether he proceeds with his application or not. If he does not go through with the transfer option, he will be entitled to a pension from VBL when the conditions are fulfilled with no consideration for the payment of the European pension.

During the negotiations, an order of the Constitutional Court was introduced requiring a change in the VBL regulations regarding benefits. This amendment concerns the benefit regulated by § 18 of the law on the improvement of occupational pensions.

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This benefit has always been considered as calculated with a fixed and definitive amount.

As of 2001, the calculation will change. The former fixed pension will become dynamic, and can be subject to adjustments.
To operate a transfer of accrued rights for this type of pension, in addition to the actuarial calculation factors, one has to add a table to adjust pension rights in accordance to § 18. The parties will have to adapt their agreement in accordance to the new provisions when they come into force. All transfers already carried out will have to be revised in the light of the Constitutional Court's order.
This agreement is a step forward in the elimination of the obstacles to workers' mobility since to date, the difference between the schemes (a comprehensive scheme like the Community staff pension scheme on the one hand and a scheme complementing the basic scheme like VBL on the other) has been an obstacle to a mutual and unlimited transfer of rights. The solution to this problem is tied to the evolution of legal conditions in the Member States and at a European level.
A lot of things will depend on our capacity to achieve a greater compatibility between the different types of occupational pension schemes and this will be really useful in both private and public sectors.
This new agreement gives to many employees the opportunity to have their retirement pension calculated and paid by a single institution.

Claudia Wegner-Wahnschaffer
Original language : German

The Community Staff Pension Scheme – in short

- Based on final salary
- Vesting or qualifying period : 10 years
- Accrual rate : 2 %
- Maximum pensionable years : 35
- Pensionable age : 60

If the qualifying period is not completed, the employee is entitled to a lump sum representing the global amount of contributions enhanced by an interest rate.

GERMANY

Eco-tax, legal pensions and supplementary pensions

introduction of a new taxation system
Not only in Germany but all over Europe, the idea of introducing an ecology tax is spreading out. The media and the public have reduced the denomination of "law introducing an ecology fiscal reform" into a more simple word "Eco-tax". In Germany, the law was enforced on 1 April 1999. It pursues a double objective:
Firstly a higher taxation of energy is supposed to reduce the private consumption of fossil fuels, in particular car petrol.
Secondly it will be desirable to lower social contribution rates especially contributions for the legal basic scheme.
In its bill (n° 14/40 of the German Parliament of 17 November 1998) the government coalition explained that in Germany, energy retail prices are too low and not conducive to save energy and develop products and processes requiring lower energy and natural resources. On the other hand too high labour costs due particularly to social insurance contributions are a real constraint on the labour market. To reduce the labour cost it is necessary to reduce social insurance contributions.
A first step towards a decrease in social contributions was taken with the Law on social contributions of 19 December 1998 (§1)②. This decrease came into force on 1 April 1999 at the same time as the enforcement of the eco-tax.

By 2003, the eco-tax will be gradually increased and the contribution rates of the compulsory social insurance will go on decreasing down to the global rate of 19.1 % in 2003. In 1998 the contribution rate was still 20.3 %. Indeed, lower contributions to pension insurance means a loss in finances, which must be compensated by the receipts provided by the eco-tax. This will allow to save a part of the allocation paid by the State to the basic pension insurance since this latter will receive the product of the eco-tax.③ In addition increases in pensions will be slowed down.
Globally this decrease in social charges is meant to reduce labour costs for companies so that they can offer new jobs.

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Impact on supplementary pensions

This evolution also impacts on supplementary pension schemes. Together with the basic scheme they form a comprehensive pension system. For the public service, the supplementary scheme must ensure to non civil servant employees the same pension level as the one offered to civil servants. For this purpose the supplementary pension completes the basic pension paid by the general scheme up to the amount of the so called integrated pension. This integrated pension amounts more or less to the level of civil servants' pension. In a simplified way, we can explain the system as follows:

Basic pension
+
Supplementary pension
=
integrated pension

Consequently, the supplementary pension is linked to two reference levels: the level of the basic pension and the level of the civil servant's pension. The amount to be paid varies according to the changes affecting these two reference schemes.
The amount of the integrated pension and therefore the amount of the supplementary pension is in line with active members' net salaries.

The supplementary pension calculation is based on a reference salary. the gross reference salary is a monthly average calculated on the gross salary of the last three years. After deducting social contributions and taxes a net reference salary is obtained and will be used in the calculation of the pension④.
Because of this calculation formula, any change in taxation or social contribution rates affects the amount of the supplementary pension. If contributions are lowered the net reference salary will increase, subsequently entailing an increase in the calculation basis for supplementary pensions.
For this reason the new eco-tax is going to impact on the evolution of supplementary pensions, since it will reduce contributions to the general scheme and therefore generate higher benefits in the supplementary scheme.
What is the consequence for supplementary schemes?

Higher benefits will generate higher financial charges; The first two steps of the fiscal reform and the introduction of the eco-tax have entailed additional charges amounting to about € 430 million yearly.

Social partners who negotiate the supplementary pension have reflected on the subject. In the framework of social bargaining they have proposed transition alternatives in order to contain the financial overcharges while waiting for a complete overhauling of the supplementary system. Consequently the benefits will be frozen as of 1 January 2002 for a two-year period. From 1 January 2002 the new pensions will be calculated on the basis of the social contribution rates of 1 January 1999. Therefore the changes resulting from the eco-tax (higher net salaries) will not be taken into account in supplementary pension calculation. The tax relief granted to active employees in the framework of the eco-tax will not affect the automatic adjustment of supplementary pensions. For supplementary pensions, social partners have agreed to resume social bargaining later to ensure the sustainability of supplementary pension financing in the public service, without increasing the contribution rate.

Conclusion

The future will show if and how this objective will be achieved, since an important pension reform is being prepared in Germany; Whatever the result of this future reform, the tax payer can be sure the eco-tax will remain.

Klaus Stürmer
Walter Dietsch
Original language : German

Notes

1 Situation in August 2000

2 Law of 19 December 1998 on social insurance modifications and preservation of workers' rights, Art 5 § 1

3 in accordance to § 213 Chapter VI of the Social Regulations

4 you can find more details in the database presented on the association's Web site

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Open forum

The other cheek or the hidden face of the pensions systems

In the journal « Reforms of Social Security in Latin America » of October 1998, Emilio Morgado Valenzuela and Mario Pasco Cosmopolis describe the erosion factors of social security systems in Chile* and Peru. This can be summarised as follows.

The demographic evolutions (decrease in birth rate and increase in life expectancy) taken together with levels of unemployment generated a rise in the costs of certain benefits, particularly health benefits. In addition, social security institutions were run in a bureaucratic and particularly inefficient way. Contributions owed by public authorities were often unpaid and the various governments were drawing upon the budget to cover their own financial needs.

The balance between receipts and benefits was not maintained since everybody contributed on a basis lower than the salary used in calculating pension. Not to mention the fraud, whereby end of career salary increases were given in order to get more generous benefits.

In such a situation, the general scheme became subject to abundant criticism regarding its quality and cost, as well as the way any surplus was invested. This situation favoured the creation of many other schemes offering more flexible admission conditions and often more favourable benefits especially for pensionable age.

The unfavourable situation, together with the poor management of public pensions, have led Chile and other countries to develop funded defined contribution systems run by limited profit-making companies.

You probably wonder what is the relation between this situation and what is going on presently in Europe, and also what is the intention of this article ?

The answer to the first question is for you to choose .

I am going to give you the answer to the second question.

Despite similarities, the title of this article has no evangelic scope.

However if it does have something to do with the Scriptures, it would only be by referring to a certain precious metal so cleverly handled by the Merchants of the Temple and… by certain institutions running pension schemes !

In fact I would like to talk about the other cheek, that is the hidden face of the pension schemes, the same hidden face that contributed to the ruin of the social security systems in Latin America.

Whenever we tackle issues relating to pensions or social security systems, the debate is limited to a dichotomy which is often artificial: funding vs pay-as-you-go. And any transition between both methods is only considered a possibility in the long run after the baby boom effect.

All our attention is focused on financing, and a smog is gradually spreading over what I call the other face, i.e. the expenses, the charges and the responsibilities of pensions systems. These factors have been forgotten, voluntarily or not.

It is also worth pointing out that as long as benefits are not awarded rationally, there will be no fair financing.

While we are discussing the modifications to be introduced in the financing systems in order to face the next demographic crisis, I would like to propose priorities in two aspects of the problem:

1) to rationalise expenses
2) to set up new financing methods, for instance mixed systems linking pay-as-you-go and funding.

This article intends to cast some light on the first point. I consider that to date, the second point has been subject to sufficient debate, although without the impartiality it deserves. But, as everyone knows, the sustainability of pension systems tends to be a very emotive subject…

It is also necessary to bear in mind the huge amounts of money at stake and the voracity of financial markets and their agents.

Although everybody agrees on the weakness of present systems, this did not prevent certain countries from setting up special schemes more favourable than the general scheme, or from increasing minimum pensions or developing early pensions in order to solve the problem of downsizing (without fully realising that this merely deferred the problem).

With no intention of accusing anybody, I would however consider that such measures can be subject to two different interpretations dependant on the reader's standpoint.

- As an intent to correct certain social imbalance, allowing pensioners (as a lower social category) to have their share of the increase in productivity;
- As an intent to ruin the institutions' financial situations so that an earlier breakdown could create favourable conditions (a psychological climate) for a drastic overhauling of the whole system.

It is worth remembering that some of the most important funded systems have been introduced during crisis periods, when people's expectations were rather low, like the post war period or the periods following military coups d'état allowing the establishment of non democratic governments.

Let's overlook the evaluation of such measures, especially their economic and social justification as well as the reasons supporting their adoption and let's just note that while we are still debating the financial question (which has been going round in circles with no foreseeable way out), costs go on increasing without any control as if this debate were unfounded, as if a miracle were going to solve all financial problems.

Would it not be time to unveil the other face, the face of the hidden reality of pension systems?

Wouldn't it be necessary to stop a while to think?

Everybody knows that thinking while walking is not easy, and in addition it can be completely useless as the reality on which we reflect is ever changing.

Vasco Costa - CGA - Portugal
Original language : French

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In short

Pensions Forum

EAPSPI was invited to participate in the working groups of the Pensions Forum that gathered in Brussels on 11 and 12 December. The first meeting concerned the acquisition and preservation of pension rights, the second one concerned portability of pension rights. Other meetings will be organised at the beginning of the year.

Conference in Rome

INPDAP organises an international conference on 1st and 2nd March 2001. It will deal with the evolution of public sector pension schemes in Europe and analyse the reforms recently introduced in European countries. It will also tackle the trend towards an harmonisation of public and private sector pensions as well as the impact of privatisation on pension schemes.

Open Forum

GERMANY

AKA's position regarding European pension policy

Evolution and objectives

In 1997 AKA set out its position with regard to European policy. Such policy takes on more and more significance in the pension field. The Green Paper of the European Commission on supplementary pensions in the single market, the Directive on free movement (EC 98/49) and the extension of Regulation EEC 1408/71 to civil servants in June 1998 represent major steps in the area of pensions, which also concern the public sector. Further to this evolution, AKA has reviewed its position and formulated principles which will govern its work in the European framework.

One of the basic elements in a Europe gathering all age groups, is the fact that all citizens, after their working life, could enjoy sufficient incomes, decent incomes from an economic and social point of view. For this purpose, it is necessary to take into account the evolution of demographic conditions. Consequently AKA supports all efforts aimed at ensuring long term financing of European pension schemes and sustainable pensions able to manage the ageing of European societies.

Diversity of pension schemes

The occupational pensions which belong to the second pillar of the pension system play an important part in complementing the basic scheme. AKA will support all European policy aiming to improve the general conditions for the development of this second pillar of retirement pensions.

It is necessary to bear in mind that occupational pensions have different functions in the Member States of the EU and they have different objective regarding insurance. This has generated different legal and economic structures. It is essential to maintain this diversity of forms which reflects a diversity of social structures, of corporate realities, but also of legal systems in the various Member States.

As long as the systems maintain their difference, it will be pointless to try to achieve harmonisation of basic and supplementary schemes by way of co-ordination. In its White Paper on "European Social policy" a way for the future of the Union COM (64) 333, Chapter n° 18, the Commission underlines that the historic evolutions are an obstacle to the harmonisation of social security schemes.

Subsidiarity and convergence

For this reason the principle of subsidiarity, deep-rooted in Article 5 of the EC Treaty, must be maintained in the social security field. For social security schemes this means that the national structures of old age insurance which have been shaped over several decades must be respected on two essential points : the type of benefits and how they accrue, and their financing method.

For this reason, AKA thinks that the vesting (or qualifying) period governing the entitlement cannot be subject to any European co-ordination. In addition no European action can hamper the autonomy of collective agreements in the field of public sector supplementary pensions, since the German Constitution expressly guarantees this autonomy of the social partners.

On this point AKA approves the position of the High level working group chaired by Mrs Veil, by which national decisions and the autonomy of the social partners must be

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respected (report of the High level working group on free movement of workers). AKA also agrees with the opinion of the Commission, by which Member States are responsible for their own social security schemes (Communication of the Commission, COM 2000/154).
Consequently efforts should be intensified in order to achieve a certain convergence of national developments. For this reason AKA gives particular importance to the social dialogue and to the European Pensions Forum in order to promote European integration based on voluntary national decision. In AKA's opinion, only a prudent co-ordination of framework conditions can be considered as an acceptable objective for European social policy in the pension field.

Free movement

Social security schemes, together with occupational pension schemes, must have provisions which favour free movement within the EU. For this reason provisions which hamper this basic freedom must be eliminated.
AKA supports all efforts to establish cross-border portability of pension rights in order to eliminate obstacles to mobility. In this respect AKA is in favour of a gradual progress which would allow to free mobility from its constraints, particularly for workers most affected. It would not be fair to suddenly transform schemes which have proved to be reliable, have been developing over decades and cover millions of workers just for the sake of a small number of members concerned about mobility. Those most concerned with the need to remove obstacles to free movement are workers of multinational companies.
However from the beginning it is necessary to set up a basic concept determining the principles of an extended portability of pension rights. This is the only way to guarantee the realisation of a transfer system compatible with all types of pension schemes within the EU.

Financing

The European pension schemes have different financing methods. Apart from pay-as-you-go and funded schemes, there are hybrid systems.

Each of these systems has its specific advantages and disadvantages. This diversity of financing methods must be maintained in the name of the principle of subsidiarity. To impose a single financing system, for example funding, would not be objectively justified and it would be unacceptable. Thus, full funding for the German pension scheme for public service employees would require such a significant amount that it would impossible to finance or to impose such an idea at a political level.

The measure to be used to assess financing method would be the capacity of the scheme to guarantee pension rights in the long term, including the covering of biometric risks. A pure savings method, which would not be able to ensure sufficient incomes for retirement, cannot be considered as a good financing system. Indeed whilst pension institutions should be allowed to take advantage of the financial markets , they cannot be considered as a vehicle for the development of these markets.

Conclusion

In the European field, AKA considers the following points as priorities:

- To facilitate European workers' mobility,
- To ensure long term financing of European pensions schemes,
- To maintain the diversity of pensions systems in the name of subsidiarity,
- To respect national competence regarding legislation.

All this, while striving to achieve a convergent evolution of a social dialogue at a European level.

AKA will approve all measures underpinned by these principles and will support them to the best of its ability.

Original language : German

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Open Forum

The annual conference

of EAPSPI

will be held in Stockholm

on 20 and 21 September 2001

THE NETHERLANDS

The European Pensions Directive

On 11 October 2000 the European Commission has come out with the long-awaited draft directive for pension institutes. In the proposal for a directive in respect of "The coordination of laws, regulations and administrative provisions relating to institutes for occupational retirement provisions" a number of supervision and investment rules for pension institutes within the European Union are worked out.

It has been known for a long time already that the European Commission is aiming at establishment of an internal market for supplementary pensions. In 1997 the Monti Green Paper on "Supplementary pensions in the internal market" and in 1999 we saw the publication of the Memo: "Towards an internal market for supplementary pensions".
The most concrete subjects dealt with in said Memo, viz. supervision and investment rules for institutes for pension provisions, have now been worked out in the proposal for a directive published on 11 October 2000.

In the following I will discuss in some detail the contents of this directive and I will also dwell on the practical implications this directive may have for the Netherlands.
It could very well be interesting if the other members of our association would also explain in some detail what practical implications the proposed directive will have for their respective countries.

To put it briefly, it can be said that the directive starts from the following objectives:

- Ensuring a high level of protection for the participants;
- Making it possible for pension institutes to make use of the advantages of the internal market and the euro for the purpose of improvement of their investment strategies;
- Approval of mutual recognition of national supervision rules and supervisors and thereby at the same time clearing the way for cross-border fund participation.

The draft guideline will not result in the creation of a new (central) supervision and investment regime for pension institutes, but rather it is aimed at coordination of the national supervision and investment regimes and at making them link up better with each other.
A large number of subjects are dealt with in the draft directive and that is why I am going to restrict myself to a few of the key items in this presentation.

Scope of the directive
The directive applies to pension institutes which:
- operate on the basis of a capital funding system <u>and</u>
- constitute an entity which is separated from the company which sponsors the pension institute <u>and</u>
- whose sole objective is to offer pension provisions within the context of an employment activity on the basis of an individual or a collective employment contract between the employer or employers and the employee or employees.

The directive <u>does not</u> apply to institutes which:
- operate on the basis of a pay-as-you-go system <u>or</u>
- come within the scope of Regulation 1408/71 (such as legal state pension institutes) <u>or</u>
- come within the scope of any of the insurance directives <u>or</u>
- which are linked to a company which makes use of balance sheet reserves (book reserves) as the basis for the old-age provision.

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A member state is entitled to opt for declaring the directive not to be applicable to pension institutes with less than 100 participants.
The member states are obliged to see to it that the pension institutes limit their activities to the activities which are mentioned in this guideline.

Practical implication for the Netherlands:
All Dutch sector, company and occupational pension funds come within the scope of operation of the draft directive.

Separation between the company (the sponsor) and the pension institute
One of the key items in the viewpoint of the Commission is the obligation of a juridical separation between the company (the sponsor) and the pension institute. In this way it can be made sure that fulfilment of the pension commitment does not depend on the continued existence of the company or the sector of trade and industry involved.

Practical implication for the Netherlands:
The Dutch pension funds meet this obligation.

Administration conditions
In view of the need to protect the participants the Commission takes the position that the pension fund administration should meet the highest standards of professionalism: qualified administrators and managers and other personnel, the existence of a pension statute, valuation of the commitments on a realistic basis by an actuary or another specialist, and a sufficient supply of information about the administration of the pension scheme to the supervisor and the participants.
Annual information in the form of financial statements and an annual report.
The pension institute would have to inform the participants year by year about the accrued rights and would have to make available (a summary of) the annual report and a (concise) statement of the investment policy.
Every three years the pension institutes must provide the national supervisor with information on the investment principles, including the methods of risk management that are applied within the framework of the investment policy.

Practical implication for the Netherlands:
The stipulations in respect of the administrators and managers of pension institutes are in line with what is laid down in the Dutch legislation on these matters.
As regards the supply of information to the participants, the rules envisaged in the directive go a little further than the stipulations which are applied in the Netherlands in this respect, in particular where the information with regard to information on the investment policy.
In the Netherlands there are no legal stipulations which impose on a pension institute an obligation to provide the supervisor at three-year intervals with information in respect of the investment principles and the methods of risk management that are applied within the framework of the investment policy.
A further study will have to be carried out in order to determine to what extent the Dutch legislation will have to be adapted with a view to meeting this specific requirement.

Capital funding and solvency criteria
The directive imposes an obligation that the pension commitments should be covered at all times and provides for a limited scope for a temporary deviation from this requirement, subject to the proviso that a plan has been drawn up for the purpose of eliminating the deficit.

Practical implication for the Netherlands:
These stipulations are in line with those that are applicable in a Dutch context.

Investment rules and portfolio management
The general rule of the directive is that the member states do not have the right to impose on the pension institutes any obligation to invest in any specific investment categories. In other words, full freedom of investment is implied. The only restriction that is imposed is that not more than 5% of the investments is allowed to be invested in the pension institute's "own" company.

The member states have the right to establish within their own respective territories more detailed rules for institutes for old-age provisions.

In short

Changing job but sticking to pensions

Bernard Cochemé leaves the Pension Branch of Caisse des dépôts. Appointed to the UNO, he will be CEO of the UNO pension fund and responsible for pensions of other specialised organisations. He will take up his new job in New York on 2 January 2001. He will be replaced by Georges Constantin at the head of the Pension Branch in Paris.

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However, it is **not** allowed that the effect of any such rules would be that the pension institutes are obliged:

- to keep more than 70% of the investments in the respective national currency;
- to allocate more than 30% of the investments to assets other than equity.

The member states are not allowed to create any kind of impediments that would hinder portfolio managers from the other member states of the European Union.

Practical implication for the Netherlands:
In the Netherlands there is full freedom of investment for pension funds. Theoretically, it would be possible for the Dutch government to impose restrictions. However, from a practical point of view and in terms of actual investment operations there is in the Netherlands a very wide consensus that restrictions are highly undesirable.
It is not allowed to create any kind of impediments that would hinder portfolio managers from the other member states of the European Union; this formulation implies that in principle there is no prohibition to impose restrictions on portfolio managers outside the European Union. For the Netherlands the imposition of restrictions on a specific category of portfolio managers is not a subject of discussion.

Cross-border fund participation

In the directive the principle of cross-border fund participation has been formulated, as well as a procedure for the cooperation between the national supervisors in case of cross-border fund participation. In particular for multinational corporations this regulation can be of importance. The directive also stipulates that if a pension institute intends to administer a pension scheme for companies in another EU member state, this has to be reported to the competent authorities of the country in which the pension institute is based. An additional requirement is that between the supervisors in the home state and the host state of the pension institute there should be mutual recognition of the respective national supervision regime.
A pension institute which administers a pension scheme in another member state has to comply with the relevant labour legislation and social legislation of the member state in which the company concerned (the sponsor) is based.

Practical implication for the Netherlands:
Cross-border fund participation is a new items for the Netherlands as well. Setting up of cooperative procedures between national supervisors in case of cross-border fund participation will not be an easy task and could lead to very complex procedures.
The question is: Do all member states of the EU have a supervisory agency? And in cases where there is no such supervisory agency, how can there be any kind of mutual recognition?

Conclusions

The directive in the form in which it has now been proposed will have little impact, if any, on the Dutch pension funds. This is in fact the opinion of the Commission as well, as appears from the answers to the most frequently asked questions in relation to the draft directive. Literally it is said that: "Funds in these member states (Netherlands and UK) would be able to continue to operate as they do now".
For other EU member states, however, I think that the consequences may carry more weight.
Already when the Monti Green Book was issued (in 1997) and when the Memo: "Towards an internal market for supplementary pensions" was published (in 1999), the stipulations in respect of investments drew most attention.
The exceptions to the freedom of investment which have been formulated in the present draft directive in fact lead to maintenance of the existing investment restrictions in several member states.
In this relation one could wonder how investment restrictions relate to an actual internal market for financial services.
It is clear that the Commission has looked for a compromise here.
Although the Commission itself in a number of documents emphasizes the importance of a more widespread use of capital funding systems, the draft directive does not contain any impetus towards stimulation of capital funding. However, it would seem one of the effects of the draft directive is to impose rules on the member states with capital funding systems - rules which as a matter of fact they already comply with - while the systems on the basis of pay as you go are left as they are.
The directive fails to tackle the problem of the differences in fiscal treatment of pensions in the respective member states of the EU. But the Commission does mention its intention to issue in the course of next year a draft directive pertaining to coordination of the taxation of supplementary pensions.
In addition to the fiscal issues there are a number of other matters which are not addressed in the draft directive, for instance the issue of decision-making participation for pensioners and the matter of the so-called biometric risks. In the past the European Parliament already devoted much attention to these matters, so it is to be expected that these will be on the agenda again when the draft directive is discussed in the European Parliament.
It is not to be expected actually that the European Parliament will raise major objections against the proposed directive, taking into consideration that during the debates on other subjects relating to pensions it has already appeared that the Parliament is in favour of a directive for pension institutes.

The Commission has taken an important step towards an internal market for supplementary pensions; it is now for the Council of Ministers to follow up on this move.

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