AEIRSP EAPSPI EVVÖD

Euro Pension Bulletin

N° 9 – April 2001

National updates

IRELAND

Publication of the Final Report of the Commission on Public Service Pensions

The Minister for Finance published the Final Report of the Commission on Public Service Pensions on 31 January 2001. The Commission was established in 1996 to examine and report on the occupational pension arrangements of public servants against a background of growing concern generally about the rising costs of existing public service pension schemes. Its terms of reference required it to have regard to the emerging cost situation as well as to claims for improvement in scheme benefits, changes in the working environment and conditions of service of public servants, and the operational needs of the public service.

The Commission's membership included representatives of the pensions industry in Ireland, Government Departments, trade unions and employers. The Commission was chaired by Professor Dermot McAleese, Whately Professor of Political Economy, Trinity College Dublin.

In its Report, the Commission states that the existing level of gross expenditure on public service pensions is expected to more than double over the period 1997 to 2012, and to almost quadruple over the thirty year period to 2027. In a statement accompanying the release of the Report, the Minister stated that these cost projections were a matter of serious concern. He agreed with the Commission that the projections would be of much greater concern if the many union claims for benefit improvements, especially state-funded early retirement, were to be conceded.

The Commission proposes a range of measures which would contribute to the achievement of a more secure financial basis for public service pension schemes over the long-term, while at the same time helping to address a desire for pensions choice which underlies many of the union claims. Among the measures recommended are: new pension flexibilities in the lead-in to retirement; the introduction of a facility allowing for early retirement from age 50 at full cost to the individual; the introduction of a new AVC-type scheme for the public service as a whole to enable public servants to contribute towards their own retirement decisions; and a new early retirement provision, entitled Approved Early Retirement, which would allow for early retirement without actuarial reduction of benefits in certain limited circumstances.

(see page 2)

NATIONAL UPDATES

Conor Mc Ginn (Ireland)
Final Report of the Commission p 1

Philippe Nys (Belgium)
End of career in the public sector p 3

Hagen Hügelschäffer (Germany)
The pension reform p 4

Vasco Costa (Portugal)
CGA has moved p 5

Spain
New agreement on social Protection p10

FOCUS

National Pension Insurance (Hungary)
The Hungarian pension system p 6

Maurizio Benetti
Social Security for public employees p 8

OPEN FORUM

Klaus Stürmer (Germany)
European Directive p11

EUROPEAN CASE LAW

Philippe Nys (Belgium)
The Camaratto and Vignone Cases p12

Editorial

The third session of the Pensions Forum was held on 23 February in Brussels. It is now becoming familiar within the European institutional scene. Whilst reflecting divergent opinions, the debates within the forum are always professional and respectful towards other positions.

Indeed in European development all divergence will not be erased overnight; but it must be noted that NGOs have greater input than representatives from Member states, and they are particularly eager to make progress.

With this new approach, the European institutions get closer to the man in the street and are tuned in to all proposals coming from representative organisations . This is certainly a good way, probably the best, to go on progressing in the construction of a united Europe, particularly in the social field.

However, the obvious intention to erase frontiers has not come to reality yet, witness the obstacles that potentially mobile workers must still overcome regarding preservation of their occupational pension rights.

The debate is not a new one and our association has been deeply involved in it through its studies and participation in the working group of the Pensions Forum.

Nevertheless the Commission will take into account the outcome of the Forum in a proposal about portability of occupational pension rights, which is expected by the end of the year. The Forum will also regularly be informed of the studies completed within the Social Protection Committee on ageing and long term sustainability of pension systems.

For the Commission, the Pensions Forum could be actively involved in these deliberations

Thierry CHRISTOPHOUL
Original language : French

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

Report on the Web

The Commission Report is a substantial document and contains 57 recommendations in total. The full text is available on the Department of Finance website @ Http://www.irlgov.ie/finance

European Association of Public Sector Pensions Institutions - EAPSPI

Association under the French Law 1st July 1901, registered at Préfecture de la Gironde Bordeaux – France – nr 2/25493

Reg. office & General secretariat : *co* Caisse des dépôts 3, rue du Vergne F 33059 BORDEAUX CEDEX

☎ + 33 (5) 56114397
Fax + 33 (5) 56114863

aeirsp@caissedesdepots.fr

http://www.eapspi.com

In the longer term, and focusing on the pension arrangements of future new entrants to the public service, a series of measures are recommended for the purpose of ensuring that scheme terms remain reflective of wider social developments and of current operational requirements.
Consistent with the significant improvement which has taken place in life expectancy since public service pension schemes were first introduced, the Commission recommends an increase in retirement age and a number of modifications in the special terms which apply to certain groups for operational reasons.

As a further step in consolidating the long-term financial basis of public service schemes, and in the context of its recommendation to establish a guaranteed pay-related pension increase system secured by legislation and a pension fund, the Commission recommends the introduction of a new 1% contribution by serving public servants to meet part of the cost of increasing pensions in line with public service pay.

The question of improving the management of public service pension schemes is an important aspect of the Commission's Report. Among the measures recommended are the implementation of a public service earnings index as a means of continuing pension increases in line with public service pay, more transparent accounting for pension costs, the introduction of improved pensions administration structures, and the enhanced communication of benefit entitlements and options to individual public servants.

The Commission makes a number of other recommendations relating to pension scheme terms. These include a change in the operation of integration with the Social Insurance system aimed at improving the rates of occupational pension for public servants who are fully insured under the Social Insurance system who retire on relatively low levels of pay, and for pensioners in that category. The Commission also recommends a change in the method of integration in the case of part-time staff (i.e. from "full" to "pro rata" integration).

On the question of pensions pre-funding, the Commission recommends that as part of the process of introducing the additional 1% employee pension contribution, the public service pensions element in Ireland's newly established National Pensions Reserve Fund (see Euro Pension Bulletin No. 7, page 10) should be adapted to a separate dedicated pension fund for pension increases.

Reservations are entered in relation to certain of the Commission's recommendations, mostly on behalf of the representatives of the public service unions.

Under the current National Agreement between the Social Partners, the Programme for Prosperity and Fairness, a working group of the public service unions, relevant Government Departments and other appropriate bodies is to be established following Government consideration of the Report of the Commission to advise on the implementation of the relevant Government decisions with a view to introducing, as quickly as possible, any proposed changes in public service pension arrangements, including those for low paid workers. The Minister for Finance has signalled the Government's intention to make formal decisions on the Commission's recommendations once it has had an opportunity to consider the Report in detail. It will move to establish the working group to advise on implementation once that process has been completed.

The Minister welcomed the Final Report of the Commission. He noted that this was the first comprehensive examination of public service pension arrangements since the foundation of the State. He noted the view that the Commission's recommendations represented an integrated and cohesive long-term strategy for public service pensions, and that in implementing this strategy it would be important to preserve the integrity of the package of measures as a whole. He said that he expected this element to be a significant consideration in deciding the Government's response to the Commission's Report.

Conor Mc Ginn
Original language : English

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

BELGIUM

End of career in the public sector… New elements

As stated in EPB n° 7, the Law of 12 August 2000 provided several measures aiming to increase the activity rate of people aged over 55. One of these measures provided that periods of pre-retirement leave taken after 31 December 2009 would no longer be taken into account for establishing entitlement and calculation of the pension.

What was not said in the article is that, just before the law was passed, and because of the strong opposition to this measure, the Minister of pensions had promised to look at the creation of a "credit period" taking into account all service actually completed during the career and from which all voluntary periods of leave would be deducted. For this purpose the Parliament has conferred on the king the power to modify the law*.

A royal order will set the idea of the credit period in place very soon. Thus it seems interesting to analyse the question.

The denomination of pre-retirement leave covers any possibility of leave provided by statutory authorities allowing public service employees to stop or reduce their activity before retirement while still receiving a certain percentage of their last salary. This concerns employees of the State, the communities, including teaching staff, the regions, the Army, public companies…. As a rule this opportunity is available from age 55, i.e. 5 years before the minimum legal pensionable age. Historically all these periods of leave were fully taken into account.

However certain other periods of leave (career breaks, unpaid leave treated as service time by virtue of regulations, half time partial retirement, 4 working days week schedules) are taken into account for the pension calculation, subject to the limit of 20 % of the whole actual service time. However, pre- retirement leave is not subject to the 20 % limit, on the contrary it is added to the service time on which this limit is calculated.

The royal order presently being prepared changes this rule and will allow each employee to have a credit period representing a percentage of the actual services of the whole career. All voluntary leave, including pre-retirement leave, will be deducted from this credit period.

The project would be based on the following principles:

The new system will come into force on 1 January 2002

- Employees who were already on pre-retirement leave by 1 July 2000 will remain under the former legal provisions.
All periods of leave will be taken into account subject to a maximum of 20 % of the total services of the career - but the pre-retirement leave is not included in the leave covered by the 20 % limit. Rather, it is added to the service time on which this limit is calculated.

- For employees who have reached the age of 55 before 1 January 2002 (born before 1 January 1947) the current provision is also maintained.

- For employees who will reach the age of 55 between 1 January 2002 and 31 December 2005 (born between 1 January 1947 and 31 December 1950), the periods of leave, including pre-retirement leave, are taken into account subject to the limit of 25 %, and the pre-retirement leave will not be added to the service time on which the 25% limit is calculated.

- For employees reaching the age of 55 between 1 January 2006 and 31 December 2010 (born between 1 January 1951 and 31 December 1955), the periods of leave, including pre-retirement leave, are taken into account subject to the limit of 20 % + x/y of 5 %, and the pre-retirement leave is not added to the service time on which the above mentioned limit is calculated.
x = number of months included in the period ranging from the 1st day of the month during which the employee is 55 to 1 January 2011
y = 60

Example : the employee is 55 on 15 February 2006. There are 59 months between 1st February 2006 and 1st January 2011 Thus the limit is 20 % + (59/60th x 5) = 24,91 %

- For employees reaching age 55 as of 1 January 2011 (born after 31 December 1955), periods of leave, including pre-retirement leave, are taken into account subject to the limit of 20 %, and pre-retirement leave is not added to the service time on which the 20 % limit is calculated.

One particular point: For persons who have had a career break of at least 24 months, which includes at least 12 months where membership/service has been granted because the employee or the spouse has received family allowance for at least one child aged under 6, the limit of 25 % is still maintained, even for those who will be 55 after 1 January 2006 (born after 31 December 1950).

Philippe Nys
Original language : French

**article 168 of the Law dated 12 August 2000 conferred on the King, the power to take the necessary measures in order to maintain the global activity rate in the public sector, including by favouring leaves.*

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

GERMANY

Parliament has adopted certain points of the pension reform

The reform of the general pension scheme is one of the most ambitious projects since the coalition formed by the Social Democrats and the Greens took control of the Federal Republic in September 1988. After more than 2 years of debate, on 26 January 2001 the Bundestag (Federal Parliament) adopted the reform with the votes of the coalition government majority. However not all provisions of the new law will come into force since some of them concern the Länder and they must therefore be approved by the Bundesrat (second chamber composed of Länder's representatives). Within this Assembly, the majority formed by the Christian Democrat Party and the Liberal Party has rejected the proposed provisions during its session on 16 February. Now the majority and the opposition parties are compelled to find a compromise on the critical points.

This article will present firstly the major points of the reform of the general pension scheme, while making a clear distinction between the provisions fully adopted and the ones still pending. Secondly it will present the impact of this reform on the civil servants' pensions and on the supplementary scheme for the public employees.

The reform of general pension scheme

Definitive provisions

First it has been decided to lower the average level of pension by 2030, from 70 % of the net reference salary down to 67 % for 45 years of contribution. In actual fact the pension level will decrease to 64 %, since the formula for calculating pensionable salary will also be changed. By way of compensation the level of contribution will remain limited to 22 % maximum. In addition, from this year on, pensions will be again indexed against salaries instead of being indexed against inflation. Indeed they will increase more slowly under the new calculation method than under the former method. In this way pensioners will also contribute to stabilising the pension burden.

From now on there will be a greater recognition of children's education, and during the first 10 years of a child's education, contribution periods can be enhanced up to 50 %. Other modifications concern survivors' rights, which will also be reduced - although they may also benefit from the enhancement for a child's education.

Pending provisions

The major point of the reform of the general pension scheme relies on the development of occupational pensions and individual money purchase schemes. These are intended to offset the decrease in the general scheme's coverage. From 2002, employees covered by the general scheme will be given tax relief on their contribution corresponding to 1 % of the social security ceiling (reference salary). This percentage will increase to 4 % by 2008. For people on low incomes, this fiscal incentive may be replaced by an addition to salary where this is more favourable to them. To be granted these fiscal incentives workers will have to invest in pension savings products which meet certain requirements and are subject to control by a "certification office". These requirements include the guarantee of future benefits, the obligation to provide the benefit in the form of a life annuity and that the capital invested is neither assignable nor distrainable

Despite the diversity of pension savings products on the market, there is at present no form of pension investment meeting all these criteria.

Along side the efforts of individual savings, the occupational pension will also be developed. In the future workers will have the opportunity to build an individual right to an occupational pension through the conversion of part of their remuneration into investment in a pension fund. This right is subject to an agreement between the employer and the employee. If the company already has an insurance plan or a pension fund (new way to manage occupational pensions) the employer can propose using it. Otherwise the employees can require a group insurance contract to be taken out by the employer.

Where the employee personally contributes to the financing of the occupational pension, there is no more qualifying (or vesting) period. Accrued rights cannot be lost in the case of transfer. Where only the employer pays contributions, the qualifying period cannot legally exceed 5 years.

This aspect of the reform is a major concern for Länder because of its financial impact. Both the parliamentary opposition and certain major pension institutions, such as AKA, have raised certain reservations regarding the logic and feasibility of the new provisions. Amendments can be expected in the coming months. According to some press reports, the debates within the Bundestag's mediation committee were likely to take place before the regional ballots of 25 March in the Länder of BadeWürttemberg and Rhineland-Palatinate.

Impact on civil servants' pensions and supplementary pensions for public employees

As civil servants are not members of the general pension scheme, the reforms do not concern them at this stage. However, the government has already declared its intention to transpose the content of the reform into the civil servants' scheme. What is already a matter of public record is that significant changes will be introduced in this field during the year.

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

As for the supplementary pension scheme for public employees, the reform raises some problems.

A positive aspect has to be stressed : as of 2002, there will be tax relief on employers' contributions to occupational schemes, subject to the limit of 4 % of the social security ceiling. However, this provision, which is undoubtedly favourable for the supplementary scheme, is likely to be withdrawn during the toing and froing between the Bundestag and the Bundesrat.

It is a matter of particular concern that the public service employees be expressly excluded from the advantages granted under the pension savings system. The Preamble of the bill spells out that the public service employees are entitled to a supplementary pension which provides them a global pension coverage equivalent to the civil servants' pension, therefore the government does not consider it necessary to grant them the same fiscal incentives.

When the measures intended to lower the level of pension are introduced in the civil servants' scheme, then it is assumed there will be an extension of the fiscal incentives granted to workers affiliated to a supplementary scheme in order to develop individual pension savings.

In addition, the management of pension funds is to be entrusted to bodies subject to private law, since the Preamble of the bill does not recognise the possibility to use bodies subject to public law. This could mean the public law pension institutions having to be changed into private law pension funds. If this bill were to be maintained, then social partners involved in the management of supplementary pensions would lose all the flexibility necessary to reorganise their supplementary pension scheme on the pension fund model.

Hagen Hügelschäffer
Original language : German

PORTUGAL

CGA has moved

The Caixa Geral de Aposentações (CGA), is a statutory body subject to public law which administers the social protection system for civil servants and public employees in the sector of pensions. From 11 November 1993 its services were centralise at the third floor of Caixa Geral de Depósitos' headquarters (Av. João XXI, nº 63, em Lisboa). As a result of Decree Law n° 277/93 of 10 August, this institution had indeed to make available for CGA all the resources necessary for this activity.

The recent integration process of the Banco Nacional Ultramarino (BNU) [bank of the former overseas provinces] into the Group of Caixa Geral de Depósitos has generated certain changes in the location of the institutions' departments and services.

Consequently, since 19 March 2001, CGA has had its offices established on 4 floors of the BNU headquarters Av. 5 de Outubro, 175, 1050 Lisboa and only the information service for the public has been maintained at Av. João XXI.
The move, planned since the end of 2000, took place during the week end of 17 and 18 March. The aim was to cause minimum disruption to the running of CGA and to avoid as far as possible worrying the members and the pensioners.
On 19 March the computer system was completely operational and by the end of the week all documents contained in some 1500 boxes were arranged in the new offices.
Now that everything is organised again, it is necessary to inform the EAPSPI's members about the new contacts within CGA: →→→→→→→→→→→→→→

Vasco Costa
Original language : French

CGA

Postal address :
Caixa Geral de Aposentações
Av.ª 5 de Outubro, 175
6.º Piso
1050 Lisboa

e mails remain unchanged.
Correspondent
vasco.costa@cgd.pt
managers
armando.guedes@cgd.pt
and horacio.catroga@cgd.pt

Correspondent's telephone number: (351) 217 807 811 (Vasco Costa)

Fax number
(351) 217 807 782.
(Fax must be announced by e mail)

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

Further to the ballot organised in March, the Central Administration of the National Pension Insurance has become an observer of EAPSPI.
This membership is of major importance for our Hungarian colleagues since they intend to prepare their entry in the European Union in the best conditions for the field that concern them

Focus

HUNGARY

Overview of the pension system

The social security pension system has been operating in Hungary since 1st January 1929, It is a pay-as-you-go contributory system relying on the Bismarck model. During its some 70 years of existence it has integrated many changes. In the course of its evolution a mature social security pension system has been formed in which anyone having professional incomes is insured. Regarding old age insurance, the system covers nearly the whole population.
The present system is based on the Laws N° LXXX-LXXXII of 1997 that came into force on 1st January 1998 and involve important reforms. In the course of the pension reform the structure of the pension system has been changed into a so-called "mixed" system which includes the following elements:

- the social security provision which is contributory and pay-as-you-go

- a funded defined contribution system which provides old age pensions representing 25 % of the part covered by the traditional social security system. This subsystem is operating through private pension funds. Nowadays the market in Hungary is concentrated on 5 to 6 important funds although a lot of smaller funds are also operating.

Besides these two elements of the compulsory pension insurance there is also a system of voluntary pension funds that has been operating since 1993 and has been regulated by a separate Law.

Since 31st August, 1999 the new mixed system has been compulsory for all new employees starting their career but it has been optional to all the other members and those who have opted for the new system can still change their decisions and join again the traditional social security system by 31st December, 2003.

Presently the private pension funds have some 2 millions members which represent approximately half the number of active employees.

For the time being the employees pay 8% contribution on their contributory income to the Pension Insurance Fund. For new members affiliated to the mixed system the same contribution rate is distributed as follows: 2% for the social security pension insurance fund and 6% to the private pension fund chosen by the employee. The contribution applies to the salary up to an amount of twice of the national gross average income (contribution ceiling). At present the employers' contribution rate is 20% of the gross income and there is no contribution ceiling for the employers.

Main benefits provided by the scheme:

A full rate old-age pension requires at least a 20 year membership, a partial pension requires at least 15 years (insured service time). Pensionable age is 62 ; however for women equality shall be introduced gradually and will be achieved by 2009. (In 2001 pensionable age for women is 58 years). The pensionable salary is based on the salaries paid over the period from 1 January 1988 to retirement date. After deduction of the income tax these salaries are adjusted and submitted to a "decreasing inclusion" (that means that a part of incomes exceeding a certain limit is reduced before being integrated into the calculation). The amount of the pension is determined by the total length of services i.e. for a 15 year membership the pension amounts to 43 % of the pensionable salary, for 20 years it will be 53 % and for 40 years 80 %. Where at least 20 years have been completed there is a minimum amount of pension determined every year.

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

The indexation of the pension is carried out every year in compliance with the stipulations of the Law. The indexation rate relies both on the average inflation expected for the current year and the increase in the national net average income.

Those are the main rules, however the Law provides for certain dispensations (i.e. age conditions, early retirement, pension enhancement in the case of prolongation of activity after retirement age.)

Requirement for a disability pension are the followings: the beneficiaries must have completed the necessary service period, they must have lost at least 67% of their working capacity, be no longer able to work permanently or their salary must have substantially decreased because of disability. The "necessary service period" depends on the age. Disability pensions are calculated on the same pensionable income as old age pensions. The amounts of disability pensions are presented in charts; they vary according to age, service period and the degree of the disability.

Survivor pensions can be awarded when the deceased member already had an old age or a disability pension or when he had acquired the service period necessary for these benefits.

A widow benefit can be awarded for one year after the member's death. It amounts to 50 % of the pension that was paid or would have been paid to the member. This benefit can be paid for a longer time under certain conditions of age and disability or if the widow has two dependent children entitled to children benefits. It amounts to 20 % and can reach 54 % where the widow has no personal pension rights.

Children pension can be paid until the age of 16. Where children carry on their studies, the pension can be paid until age 25. It amounts to 30 % of the pension; however where both parents are dead, the pension reaches 60% and cannot be lower than a guaranteed minimum determined every year.

The pension conditions of the Army and Police staff (age conditions calculation, enhancements, etc.) differ from the general rules. They are regulated by a separate Law. The conditions of that Law are more favourable than the general rules. Since year 2000 the State budget pays a contribution to the social security to compensate the additional charges incurred by this Law.

The Hungarian pension system is financed by the Pension Insurance Fund whereas the provisions for the partially disabled workers or those who do not comply the age conditions are financed by the Health Insurance Fund. The deficit of the Pension Insurance Fund is covered by the State budget.

Central Administration of the National Pension Insurance

Address
Central administration of National Pension Insurance
H-1132 Budapest
Visegrádi u. 49.

Correspondant
M Ferenc KISS
E mail kissf@rontgen.onyf.hu - Tel (36) 1 270 8132

Directeur des relations internationales
M Támas Hamori
E mail : thamori@onyf.hu

in short

Congress in Rome

On 1 and 2 March 2001, EAPSPI members were invited to a congress organised by INPDAP. Germany, the Netherlands, Sweden and France presented the evolutions and perspectives of their pension system whereas INPDAP presented the Italian situation resulting from the succession of reforms introduced over the last decade.
The congress which was both professional and friendly gave a good opportunity for fruitful exchanges with our Italian correspondents

Working groups in Bordeaux

Several EAPSPI members traditionally attend the pension forum organised every year in March in Bordeaux. The association takes advantage from these visits to organise working sessions during the days preceding the forum. Thus last month several working groups met : the linguistic working group, the working group on Portability of pension rights and the new working group on the quality charter.

Pension Forum in Bordeaux

The summary of the speeches is available on CDC pension Branch 's site :
http://www.retraites.fr/

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

Focus

ITALY

Social Security for Public Employees

The Compulsory Pension System

During the 1990s, the Italian pension system has undergone a strong and continuous reform process, aiming at regaining control over pension costs both in general and with respect to GDP.

Such interventions were necessary in order to give a response to a possible crisis of the system, caused by the demographic evolution and by the labour market, and to control or eliminate the strong disparities existing in the pension treatments which determined some privileged situations and very high costs.

These reforms reduced the general level of benefits, but they were characterised also by a vast and gradual process of harmonisation among the various sectors of the Italian pension system.

This harmonisation process concerned in particular, but not exclusively, the public sector that, until 1993 had some different rules for retirement, both in terms of rights and in terms of calculation, with coverage coefficients and rates of return considerably higher than those applicable in the private sector. Moreover, for a specific class of public employees, the State employees, there was not a real pension fund and benefits were taken out from the State budget and only employees' contributions were registered as extra tributary receipts.

The harmonisation process was started by Decree Law 503 of 1992 and it went on, with a series of subsequent legislative interventions during the last ten years, together with the general reform process of the pension system.

D.L. 503/92, issued by the Amato government, modified the pensionable age, raising it from 55 to 60 years for women and from 60 to 65 for men. This did not concern public employees since only a few categories had age limits lower than 65; on the contrary, the reform modified the rules concerning early retirement. While it was possible, in the private sector to choose an early retirement after 35 years of contributions (early retirement pension), in the public sector it was possible with only 20 years of contributions for state employees and 25 years for local authorities'; these limits were reduced by 5 years for women with children.

According to D.L. 503/92, public employees recruited after 31/12/92 and those having a vesting period of less than eight years, had to pay contributions for 35 years before having right to an old age retirement. For employees whose vesting periods were longer than eight years the passage to a 35 year period was gradual while for those who had already acquired the right to an early retirement the previous rules were applicable.

D.L. 503/92 modified also the pension's calculation with an increase in the number of salaries to be considered. For new employees, without any distinction between public and private sectors, pensions were now calculated taking into consideration the whole retributive period, while until that date only the last salary was considered (the last five years in the private sector).

For workers already in service two amounts were introduced, one for the years up to 1992 and one for subsequent years; the first amount was calculated on the period envisaged by the previous regulation (last salary in the public sector), the second amount was different depending on whether the employee had a contribution period of less or more than 15 years. In the first case the amount was calculated on the basis of all subsequent working years, in the second case the amount was calculated on the basis of a given period that gradually reached 10 years.

Other interventions modifying the general pension system reduced the automatic equalisation of pensions only to increases in prices and raised the minimum contributory requirements for old age, from 15 to 20 years.
A subsequent intervention on the pension system for public employees was introduced by Ciampi government with Law 537/93. Those workers who had chosen an early retirement with less than 35 years of contribution were penalised: a reduction of the pension's amount was introduced that was proportional to the number of years necessary to reach the 35 years required.

A further important measure was implemented with Law 724 of 1994 by the Berlusconi Government.
L. 724 modified the wage basis for calculating pensions in the public sector. For employees member of pension schemes managed by Social Security Institutions, local authorities and health institutions, pension benefits (with 40 years of service) were equivalent to 100% of the salary, excluding the accessory salary. For State employees, the benefits amounted to 80% of the last salary with an increase of 18%. The cost of living allowance, linked to inflation, was calculated separately: at the beginning it was completely considered independently from the service period, afterwards, it was calculated on the basis of 1/40 for each year.

Starting from 1/1/1995 the pension for public employees was thus calculated on the basis of all wage elements submitted to contributions, without considering the accessory salary but including the cost of living allowance.
Moreover, Law 724 introduced the alignment of all rates of return to 2% as in the private sector, while for previous periods the ancient regulation was applicable.

The harmonisation between public and private sectors underwent a strong acceleration with law 335/95, following an agreement between unions and the Dini government.

The 1995 reform modified in depth the Italian pension system, introducing a different system for calculating pensions that did not depend anymore on salaries but on contributions paid. This system is still based on a pay as you

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

go method but, concerning pension's calculation, it is very similar to the capital funding one. In fact, the amount of the pension is calculated on the basis of the contributions paid each year and revalorised following the trend of the nominal GDP. The obtained amount is then converted in annuity through some coefficients which vary depending on the age of retirement that is possible from 57 to 65 years.

Starting from 1996, this system is entirely applied to new employees only and it is partially applied to those employees that by the end of 1995 had less than 18 years of contributions. Employees having more than 18 years of contributions follow the previous system.

This aspect of the reform concerned both the private and the public sectors. With respect to the contributory and pensionable basis, law 335 extended to the public sector art. 12 of law 153/69: starting from 1/9/96, all wage elements paid for the normal working activity are submitted to contribution also in the public sector. In this way, some retributions that were previously excluded are now counted for contributions to pay; however, this innovation concerns only the amount of pension relating to the reference period, that is to say from January 1st 1993 to the retirement date.

Women can retire at the age of 60; however, according to their specific regulation, women can stay in service until 65. The Amato reform, on the other hand, allowed civil servants and employees of non-economic public bodies to pursue their career for a maximum period of two years.

The law intervenes on old age pensions both public and private. In the private sector an age limit has been introduced together with the requirement of 35 years of contributions: the minimum age is at the beginning 52 and then gradually brought to 57 in 2008; the age limit can be neglected but the contributory period must be of 36 years at the beginning to get to 40 in 2008. In the public sectors, the new measures, for those employees that are not submitted to the rule of 35 years of contribution, envisage three different options for early retirement :

- the same conditions of the private sector;
- to respect only the age limit, with some reductions for the missing contribution years until 35;
- an early retirement before the age limit, but with reductions for the missing years until 37 (but with a contributory period that cannot be inferior to 30 years).

Together with the reform of the pension system, with Decree Law n. 479 of June 30 1994, INPDAP is created, incorporating various Bodies and Institutes ENPASS, INADEL, ENPDEP and the General Direction of social security bodies of the Ministry for the Treasury) that until that moment had been charged with the granting of pension benefits for various public sectors.

With Law 335 INPDAP becomes responsible for the separate Management of pension's treatments for State employees and contributions to be paid by employers and workers are defined. This system is financed by contributions, as dictated by Law 335/ 95, and by a supplementary rate taken out by the State budget that can vary depending on the total expenses of pension benefits of state employees. Subsequently, with Law 662/96 the contribution rates for the members of the various Schemes included in INPDAP are redefined and reunified.
D.L. 479/94 maintained the autonomy of the different types of management incorporated in INPDAP, but Law 388/2000 has envisaged, starting from January 1st 2001 a single management and a single budget for this body. Therefore, the various schemes keep their autonomy only within the general management.

In 1997 a new agreement between unions and the Prodi Government brought to a further intervention on pensions. Law 449 extends the harmonisation process and modified early retirement pensions bringing forward the required age of 57 for retirement in the private sector to 2002. In the public sector all the possibilities of an early retirement were eliminated except the one applicable also in the private sector; the only difference still existing is the age limit, one year less than private sector, that will be completely eliminated in 2004.

Present rules

Public employees, from a pension point of view, are divided into three different classes, like private employees.

A first group is composed of workers recruited after 1995: the contributory system is fully applied to these workers with no difference between public and private employees. Retirement is possible between 57 and 65 years, with a pension deriving from the accrued amount and the age of retirement. No early retirement is envisaged.

A second group of employees is composed of those people that in 1995 had less than 18 years of contributions. For subsequent working years the pension is calculated accordingly to the contributory system, while for the previous years the amount is calculated on the salary received. For the years after 1995, rules for calculating the pension are the same as in the private sector, while for the previous years the ancient rules will apply. Retirement is possible when the age limit of 65 for men and 60 for women is reached, or when the age and contribution requirements are met, accordingly to Law. 449/1997.

A third group is composed of those workers that at the end of 1995 had at least 18 years of contributions. These employees follow entirely the ancient system based on wage, both for calculation pensions and for having access to it. In particular, the pension is composed of rates calculated differently depending on whether they refer to a period before or after 1993: in the first case the base and period (last salary) for calculation are those envisaged by the previous laws, and the rate referring to subsequent periods is calculated accordingly to the rules introduced during the reform.
The process described mainly concerns civil servants and local authorities' employees. However, also military and police staff has been affected by these reforms, following in general the same harmonisation process.

Within the framework of a gradual harmonisation, some differences still persist concerning the age for retirement

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

that, considering also the specificity of these sectors, is lower, both for old age pension and for early retirement.
For old age pensions a gradual raise is envisaged to 60 years in 2008 and for the early retirement pension together with the requirement of the maximum contributory period (30 years until 1997) the age of 57 is requested starting from the month of July of next year.

Maurizio Benetti - INPDAP
Original language : English

National updates

SPAIN

Agreement for the improvement and the development of the social protection system

This agreement signed on 9 April 2001 by the government and one of the most important unions must be placed within the framework of the recommendations of the « Toledo Pact ». It proposes a package of measures aiming to modernise the social security system in accordance with the recent social evolutions. The agreement mainly tackles the following items:

Separation of non contributory benefit financing
The finance law will have to determine the amount of the State allocation until the complete financing of non contributory elements (this mainly covers pension enhancements aiming to reach minimum pension amounts). The complete financing should be achieved within a maximum of 12 years

Reserve fund
In accordance with the guidelines contained in the Stability Plan, it is considered as desirable to achieve an amount of 800,000 millions pesetas, i.e. 4.8 billion euros within 2004, thanks to the surplus in social security contributions. On a longer term the fund is expected to reach 1,000 000 millions pesetas, i.e. 6 billions euros. The government must define the supervision and investment rules of the Reserve fund within one year.

Flexible retirement
The agreement proposes the amendment of rules administering partial retirement in order to make compatible under certain conditions the benefit of a retirement pension and the prolongation of professional activity. It is also expected to allow pension rates higher than 100 % of the regulatory basis (reference salary) for workers having more than 35 contribution years and continuing their activity after age 65.
Regarding early retirement, workers affiliated after 1 January 1967 having more than 30 contribution years could be entitled to early retirement at age 60 under certain conditions. The reducing factor would then be ranging from 6 % to 8 % according to the length of career.

Improvement of benefits
The survivor pension could be raised from 45 % to 52 %. For survivor spouses with depending children it could even reach 70 % if the pension is the principal family income.

Dependency
The Agreement considers it is necessary to initiate a period of analysis and debate on problems linked to the loss of physical autonomy. For this purpose it provides for the creation of a Working Committee involving the three administrative levels, the State, the autonomous communities and the local governments. This committee is expected to set up action plans by 30 June 2002.

Supplementary pensions
The Agreements proposes to study the situation of supplementary systems in order to envisage the necessary improvements in line with the current social evolution. It also proposes to modernise the management and investment rules for pension funds in the context of the European policy.
The proposal contained in this agreement will be subject to a deeper analyse by a Committee for the Agreement Follow-up.

Summary drawn up by the Secretariat.

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

Open Forum

GERMANY

European Directive on occupational pensions

In his article published in EPB n° 8, Mathieu Scheepers raised the question of the practical effects of the draft directive on the activities of the institutions for occupational retirement provision in each Member State . In this article the question will be analysed from a German perspective . During the initial consultations, this directive has often been given the shorter name of "occupational pension institution directive". This wording is now wide spread and I will use it in the following text.

General remarks regarding the situation in Germany

It is important to remember when considering the scope of the directive that occupational pensions in Germany come in various forms. In the private sector, occupational pensions can be ensured through a direct commitment, a Unterstützungkasse, a direct insurance, or a pension scheme. The public sector has its own supplementary scheme. In the context of the present pension reform, yet another form of supplementary pension system will be introduced : a German version of a pension fund.

In the case of a direct commitment, the employer guarantees to provide a pension, and pays out the benefits. To achieve this he provides book reserves for his staff pensions. The Unterstützungkasse is an independent pension institution for the employees of one or several employers. In the case of direct insurance, the employer enters into life insurance contracts with an insurance company for the benefit of his employees. Finally pension schemes are independent bodies administering occupational pensions for one or several undertakings. Like insurance companies, they are subject to the insurance supervision regime.

Public service supplementary pensions are administered by supplementary pension schemes. They enter into group insurance contracts with the employers for the benefit of their employees. The nature of benefits is determined in collective agreements.

At present, among these various forms of providing occupational pensions, only the pension scheme comes under the scope of the directive. For direct insurance, Member States and life insurance companies are allowed to choose. Unterstützungkasse are specifically excluded from the scope of the directive;

The prudent man principle is supposed to be applied to the investment of collected assets. This means that the proposed directive will not impose any quantitative rule on investments. However Member States are free to establish their own stricter prudential rules . Since historically the German prudential rules have been based on quantitative criteria, we can suppose that as a first step, these requirements would be modified only by introduction of higher quotas for equities, at least for well-established occupational pension schemes. The question would be, how the prudential management principles within this directive could be introduced later.

Specificity of the public service supplementary pensions

For the public service occupational pensions it should be noted that under the present draft directive the German supplementary pension scheme is excluded, since it works on the basis of a partial reserve method - a hybrid pay-as-you-go system. Therefore the supplementary pension scheme comes under the dispensation provided by Art 2 (c) of the draft directive. This is quite logical since the administrators operate statutorily and come therefore under public control. Consequently they do not need any authorisation, nor any additional State supervision.

Because of this statutory position under public law, the provisions of the draft directive which address the private sector cannot apply to this type of institution. Whatever the financing systems, the question of the future pensions safety and the beneficiaries' protection, which are a major concern for the Commission, do not justify the integration of the supplementary pension scheme within the scope of the directive. The active members and the pensioners are always protected against the loss of pension rights, since there is no risk of insolvency for these pension institutions, (which are bodies established under public law) nor for their members (who are public employers).

The dispensation provided by Art 5 § 2 of the draft directive, which offers a choice to the Member States, obviously refers to these cases. This stipulates that the Member States could introduce regulations regarding authorisation, supervision and building up of assets, which would not be applicable to "institutions where occupational retirement provision is made under statute and which is guaranteed by a public authority". This denominates the reality of the German institutions, although the linguistic form could be even more explicit.

Outlook

The project proposed by the Commission in October will be discussed by the European Parliament in April or May 2001 at the earliest. Fiscal considerations are not expected to be introduced in this directive. However, taxation issues are expected to be tackled in a directive on taxation co-ordination for supplementary pension institutions. Considerations on this matter will certainly be published in advance under the form of a communication.

Where taxation is concerned it is important to know what the notion of old

AEIRSP EAPSPI EVVÖD Euro Pension Bulletin

age pension actually covers. Our institution, AKA, has always considered that biometrical risks be included. It is important to take into account these risks in the definition of "institution for occupational retirement provisions", at least aspects linked to longevity.

The European Parliament has always paid a lot of attention to it and it will probably debate this in its future sessions.
It is to be expected that the Commission will no longer ignore this aspect of the problem.

Klaus Stürmer
Original language : German

European case law

The Giaconda and Vignone cases C-52/99 and C-53/99

Both these cases deal with a modification in provisions of EEC Regulation n° 1408/71 having an impact on pensions already awarded and cases where further legal action is pending

Article 46 of the Regulation was modified with effect from 1 June 1992. A transitory provision (Article 95a) provided that review of pensions already granted was subject to lodging of a claim.

The request for a review takes effect from 1 June 1992 if it is made within 2 years of this date, otherwise the review takes effect from the date of the claim, except where more favourable conditions are provided by the national legislation.

The court confirms that persons, whose pension has already been awarded but where the final amount has not been settled due to on-going legal action, must make a request for review in accordance with Article 95a § 4 (Baldone Case C-307/96).

The referral Court has to decide on the relevant body to whom the claim for review is addressed (to the institution or to the jurisdiction to which the case was referred). It also considers if, to have a retrospective effect from 1 June 1992, the national legislation allows a time limit more favourable than the two years period provided by Article 95a, § 6.

In the cases mentioned above, the review claim was introduced on 12 and 13 November 1997. The pensioners consider that there is an extension of their legal action and therefore their claim can take effect from 1 June 1992 whereas the National Office for Pensions (Belgium) considers the claim as operative only from 1 December 1997, 1st day of the month following the introduction of the claim.

Incidentally, two other legal questions may be raised before the referral Court.

- The obligation of fair management which could require institutions to give pensioners the information on when to make their claim;

- The fact the claimant could have been misled by the institution which provides a calculation integrating the recent modifications without drawing the attention on the need to make a claim.

Philippe Nys
Original language : French

Euro Pension Bulletin, Newsletter for EAPSI's members

Editorial director :
Thierry Christophoul

Chief editor :
Claude Dubois

Reading Committee :
Klaus Stürmer
Brian Town
Nicolas Jeurissen

Printing :
Atelier reprographie
Caisse des Dépôts - Bordeaux - France