



The newsletter of the European association of public sector pension institutions

Survey

EUROPE	Hagen Hügelschäffer: Directive on portability: An ongoing debate	P. 1
EUROPE	Hagen Hügelschäffer: Joint Conference of EVVÖD and AEIP	P. 3
GERMANY	Eva Kaiser: Pension Update from Germany	P. 3
SCOTLAND	Ian Clapperton: Latest news from Scotland	P. 5
EUROPE	Hagen Hügelschäffer: Strategic and operational management in public sector pension institutions	P. 7
SPAIN	Amaia Aldasoro: Supplementary pensions schemes in Spain	P. 10

Editorial

Portability remains a crucial issue at European level. The proposed compromise prepared by the Council under the Finnish presidency at the end of last year reinforces the debate concerning the Directive on improving the portability of supplementary pension rights, presented by the Commission in October 2005. The “heart” of the proposal, however, namely transferability, is no longer part of the compromise but will probably be settled by means of a recommendation sent to the Member States of the European Union. Whilst remaining optional, a recommendation of this type will certainly encourage governments and social partners to promote portability by implementing rules for transfer, first at national level, then at European level. This will be a very ambitious challenge that will, in particular, involve taking into account aspects linked to social and tax law as well as to actuarial rules. Increased difficulties will be encountered, owing to the existence of different supplementary pension systems. Awareness of practices in other countries and exchange of experience are therefore becoming increasingly important and should be enhanced to promote portability as well as labour mobility within the European Union.

Hagen Hügelschäffer
Original language: French

Directive on portability - An ongoing debate

On October 20, 2005, the European Commission presented its draft directive on improving the portability of supplementary pension rights. The stated objective is the removal of obstacles to the accrual of supplementary pension rights, the preservation of dormant rights and the transfer of rights from one member State to another, and within a given state. The proposed measures are intended to enhance the mobility of employees in order to allow greater flexibility on the labour market within the European Union. Should employees change jobs, they would no longer have to worry about supplementary pension regulations being an obstacle to their mobility.

Amongst other proposals, the draft directive provides that employees are able to transfer their supplementary pension rights when they change companies. The draft directive, however, is not restricted only to portability, but includes other provisions for the accrual of rights or for the preservation of dormant rights. The Commission therefore proposes that the minimum age for the accrual of rights to a supplementary pension should not be above 21. The qualifying period would be a maximum of 2 years. Finally, the Commission is striving to ensure “fair adjustment of dormant pension rights” for outgoing employees. These provisions are to be adopted by July 1, 2008, either directly by the Member States, or by the social partners, at their joint request, by means of collective agreements. An additional period of 60 months may, however, be granted to reduce the vesting period (2 years at most). At the end of the day, the supplementary pension schemes financed on a pay-as-you-go basis or that are not fully funded would be exonerated from the portability

obligation. This provision can be explained by the fact that portability would result in an outflow of cash that would pose huge problems for supplementary schemes of this type. In practice, that mostly concerns supplementary pension schemes in the public sector financed by a pay-as-you-go system, as well as book reserves that are very widespread in Germany, the pension rights being constituted by means of provisions in company balance sheets.

Given that a unanimous vote of the Council, as well as a majority vote of the European Parliament, are required to adopt the Directive, publication of the draft directive gave rise to heated debate in the Member States and at the European Parliament. At the Parliament, the draft directive is discussed by three Committees. The Employment and Social Affairs Committee is taking the lead, but the draft directive is also on the agenda of the Economic and Monetary Affairs Committee and of the Women's Rights and Gender Equality Committee.

Within the European Parliament, opinions vary widely, as shown in the 189 amendments filed. On the one hand, the proposal made by the Commission benefits from full support, with some MPs even advocating enhanced protection of employees. On the other hand, other MPs are very critical of the draft directive, given that they are concerned about a significant increase in the cost of supplementary pension schemes, resulting in regression of the said schemes, that are financed by employers on a voluntary basis. Representatives of this group of MPs have, in particular, expressed reservations concerning the provisions that establish new minimum standards for supplementary pension schemes and that provide for "fair adjustment" of the dormant rights of outgoing employees. Finally, portability should not be settled by a directive, but by means of a recommendation sent to the Member States, that, contrary to a Directive, is not compulsory.

In light of the multitude of different opinions at the European Parliament, it is not surprising that it is difficult to find a common position. Consequently, the Parliament vote, initially scheduled for the Autumn of 2006, has been postponed several times. Based on the current status, the vote is expected to take place at the end of March in the Employment and Social Affairs Committee, dealing with the merits of the issue, and at the end of April 2007 at the plenary session of Parliament.

These diverging views exist not only within the Parliament, but also in the Member States, that will have to accept the draft directive unanimously. Given that the veto of only one Member State is enough to halt the project, a compromise, in the form of a common position, is indispensable within the Council.

As soon as the draft Directive was published, a Working Group was formed within the Council, with the task of working towards a common position. Under the British and Austrian Presidencies at the end of 2005 and during the first half of 2006, the uncertainty concerning certain terms and definitions was clarified during a first stage. In the early stage, the "political" issues were set aside, in particular the different viewpoints concerning the preservation of dormant rights, the conditions for the accrual of rights, the issue of establishing whether there should be exceptions, and for which systems. On these issues, there were extremely diverging views among Member States, to the extent that for a long time, there was doubt as to the possibility of even reaching a consensus.

A significant breakthrough was achieved by the compromise proposal of November 15, 2006, under the Finnish Presidency. This is a reworked version of the draft Directive of the Commission dated October 2005. The compromise proposal was preceded by a progress report summing up the content of previous discussions and asking the Ministries concerned key questions, so as to obtain replies on the basis of which discussions were to be continued. The first step was to obtain information as to the position of the Ministers: should the Directive focus primarily on the conditions for the accrual of imprescriptible rights and on the preservation of pension rights by means of fair adjustment of dormant rights, and should portability, in itself, be the subject of the proposal or not. The Ministers were also asked whether a modified text should allow a long period for adaptation of supplementary pension schemes to the new provisions of the Directive.

The most important modifications included in the Finnish compromise proposal concern the following:

- The vesting period would no longer be 2 years, as proposed by the Commission, but 5 years;
- The minimum age for membership of a supplementary pension scheme would no longer be 21, but 25;
- Dormant rights would no longer be the subject of "fair adjustment", but of "fair treatment", granting the Member States and the social partners more room for manoeuvre. According to the Finnish compromise proposal, fair treatment would adapt dormant rights based on several indicators, such as the inflation rate, the salary level, the level of pension benefits and the yield on capital achieved by the pension scheme administrator.

- Portability in itself would no longer be the subject of the draft directive, but would be settled by means of a non compulsory recommendation sent to the Member States.
- The Member States could benefit from an additional transition period of 120 months following the effective date of the Directive. As compensation, all the other exceptions provided for in the Commission proposal would be dropped.

On the whole, there was a positive reaction to the Finnish compromise proposal. For a long time, there was no certainty of achieving a common position in the Council, to the extent that there was very little inclination to actively pursue the topic. Even if only for the discussion within the Council, the Finnish proposal represents a significant breakthrough towards a possible compromise, the result being that the draft Directive is not only on the agenda of the German Presidency for the first semester of 2007, but also on the programme covering the 18-month period of the German, Portuguese and Slovenian Presidencies, which is a first from a time-frame viewpoint.

We do not know what the position of the European Parliament will be, and whether its vote will be in line with the position of the Council. Lastly, we need to wait for the reaction of the Commission, that should rework its initial Directive proposal. Against this backdrop, we can expect the discussion within the Member States and at European Union level to take some time yet.

Hagen Hügelschäffer
Original language: German

Joint conference of EAPSPI and AEIP - “Portability of occupational pension rights: a threat or an instrument to promote mobility”

On April 18, 2007, EAPSPI and the AEIP (European Association of Paritarian Institutions of Social Protection) will jointly organise a conference addressing the practical transposition of portability of occupational pension rights, and will present experiences at European level. In light of the proposed compromise from the Finnish presidency, dated November 15, 2006, according to which the portability of accrued rights will no longer be settled by means of a directive, but by a recommendation to the member states, it appears crucial to undertake an exchange of experience concerning portability in the different member states. The main theme will be the implementation of portability in the different countries and the challenges of cross-border transfers of accrued

rights. We will also address the issue of whether all the tax obstacles will be removed or not.

Alongside speakers from the EAPSPI and the AEIP, top-level speakers from the European Commission and the German presidency are expected.

The conference programme is available on the EAPSPI website: www.evvod.eu, in the “Current Issues” section. Participation is free of charge. To register, please contact the General Secretariat of the EAPSPI at +49 89 9235 8508 (Ms Manuela Pelnarsch), or send an e-mail to eapspi@versorgungskammer.de.

Hagen Hügelschäffer
Original language: German

Pension Update from Germany

The German government has prepared a law to raise the retirement age gradually from 65 to 67, between 2012 and 2029. Parliament has passed this bill in March.

The government coalition wants to ensure sustainability of the old-age pension scheme, and to ensure its funding. To achieve that objective, it has set percentages that must not be exceeded for statutory contributions, as well as certain targets to maintain the level of future benefits. The contribution rate should therefore not exceed 20% until 2020, and 22% until 2030. The law also provides that the contribution rate will not exceed 19.9% until 2009. The level of old-age pension benefits (before tax) will not fall below a replacement rate of 46% until 2020, and 43% until 2030, whilst targeting a 46% replacement rate even beyond 2020.

Against a backdrop of increased life expectancy and lower birth rates, the gradual increase of the statutory retirement age to 67 in 2029 is intended to contribute to the sustainability of the state pension scheme and its financial base, by means of a new balance between generations.

Here are the most significant aspects of the pension reform.

Retirement age

As from 2012, starting with the generation born in 1947, the retirement age will be raised in several stages, to reach 67 in 2029. The increase will start with one month a year (from 65 to 66) and will subsequently change to two months a year (66 and 67).

For the generations born as from 1964, the statutory retirement age will be 67. Members born up to 1963 will reach their retirement age depending on the stages applying to them.

Old-age pension for very-long-term members, with a 45-year contribution period

The increase of the statutory retirement age in several stages, as from January 1, 2012, will result in a new old-age pension for very-long-term members. Members who have reached 45 years of membership by means of contribution periods and of reckonable membership periods (parental leave, other reckonable service) will be entitled to retire at age 65, without any reduction of their pension rate. Such members, however, will not be entitled to full pension before the age of 65.

Old-age pension for long-term members, with a 35-year contribution period

Within the framework of adapting the age limits for early retirement to the statutory retirement age of 67, the age limit to obtain a full pension will also be gradually increased from 65 to 67. Early retirement will be possible at age 63 at the earliest (as opposed to the current age of 60). Taking up the early retirement option at the age of 63 will involve a 14.4% reduction in pension.

Disability pension

The ceiling for the calculation of a disability or survivor pension will be raised to 65 years. For disabled members with an uninterrupted career, the ceiling will be maintained at 63. Thus, until 2023, a member aged 63, with a 35-year contribution period, will be entitled to the disability pension, without any reduction in the pension rate. As from 2024, only those members aged 63 who have contributed over a 40-year period will be entitled to a full disability pension. Concerning the years of membership, the same periods will be taken into consideration as for old-age pensions for very-long-term members with a 45-year contribution period.

Survivor pension

Currently, the survivor pension is paid out when the survivor reaches the age of 45, has a dependent underage child or is disabled. It corresponds to 55% of the old-age pension that the member himself would have received. The age limit for the survivor pension will be raised from 45 to 47.

Maintaining member confidence in the scheme

The legislator wishes to maintain confidence in the

old-age pension scheme, by starting the successive increases in the statutory retirement age as from 2012 only, and by implementing them in very gradual stages. Thanks to a 5-year transition period, employers and employees will have enough time to adapt their forecasts. Specific protection with respect to the increase in the statutory retirement age will be granted to members born before 1954, who had already signed a gradual part-time retirement agreement before December 31, 2006. For these employees, the former age limits will remain valid. According to the media, tens of thousands of employees have taken up this possibility.

It is also provided for that employees whose employment contracts are limited to a date on which they would be entitled to an old-age pension before reaching the statutory age will benefit from an automatic extension, in order to reach the age required to benefit from a full pension.

Criticism of the reform

In light of demographic developments in Germany and of the need to take action, the government's draft reform is well accepted on the whole, given that it ensures sustainability of the state pension scheme. Although the reform will lower the replacement rate of pensions, there has not been any significant protest to date.

One specific point, however, has given rise to criticism, namely the situation of very-long-term members (45 years), who will still benefit from a full pension as from the age of 65. By implementing this measure, the government is abandoning the principle of equivalence inherent to the pension system. Members who have made the same contributions will receive different benefits, merely by virtue of the fact that their benefits were accrued at a different rate. This provision will be particularly detrimental to women. In 2004, 27% of men, but only 4% of women, could claim 45 years of membership. The opposition is concerned that the already existing gap between the retirement incomes of men and women will continue to widen, to the detriment of women, and has already announced that it will ask for verification to establish whether the regulation complies with constitutional provisions on gender discrimination.

Moreover, the planned exceptions, such as the 45-year membership issue, the special terms for disabled employees with a long career, or gradual ending of professional activity for those generations born before 1954, will have a significant financial impact on the reform. They reduce the savings effect of the reform by 0.2 contribution points to 0.4 or 0.5 contribution points.

Other decisions and projects concerning pensions

Supplementary pension schemes will undertake an identical increase in the normal retirement age. This will, in particular, concern the lower age limit within the framework of individual assisted pension savings plans ("Riester") and state support for occupational pensions.

Like the social security scheme, sustainability of the special scheme for civil servants will be ensured. The measures implemented for the state scheme will be transposed, with the same effects, to the civil servants scheme, taking into consideration the difference between the schemes.

Eva Kaiser

Original language: German

Latest news from Scotland

The main item on the agenda at the moment is the consultation exercises which are underway on the proposals to change the Scottish Schemes for the National Health Service [NHS] and Teachers [STSS].

This follows the long standing discussions between the UK Government and trade unions on the normal pension age for public service staff.

The outcome of these discussions is summarised below:

The Scottish Teachers Superannuation Scheme

The reform package agreed for new entrants from 1 April 2007 will include:

- normal pension age (NPA) of 65;
- minimum retirement age of 55, except on grounds of ill-health;
- pension based on 1/60th of salary for each year of pensionable service with the flexible option to take up to 25% of 'fund value' after commutation as a tax free lump sum by surrendering £ 1 of annual pension for £ 12 of lump sum;
- benefits payable to nominated dependent partners (opposite-sex and same-sex);
- spouses', surviving civil partners' and nominated dependent partners' pensions paid for life;

- revised ill-health retirement package – tiered approach with a higher level of benefits for total incapacity and lower level of benefits for partial incapacity;
- the better of the last year's salary or the 're-valued (in line with the Retail Price Index (RPI)) average of the best three consecutive years salary in the last ten years of service' to be used for calculating benefits at retirement;
- a facility to purchase up to £ 5.000,00 of added annual pension;
- a death grant of 3 times salary;
- phased retirement arrangements that would enable STSS members under defined circumstances to continue working as a teacher within the STSS while drawing down some or all of their accrued pension benefits; and
- actuarial enhancement for those who continue in work beyond NPA of 65 without accessing their pension benefits.

For existing members, a NPA of 60 will be retained and the current arrangements will be modified and improved in the following ways from 1 April 2007:

- minimum retirement age of 55 by 2010 except on grounds of ill-health;
- benefits payable to nominated dependent partners (opposite-sex and same-sex);
- spouses', surviving civil partners' and nominated dependent partners' pensions paid for life;
- the better of the last year's salary or the 're-valued (in line with RPI) average of the best three consecutive years salary in the last ten years of service' to be used for calculating benefits at retirement;
- revised ill-health retirement package – tiered approach with a higher level of benefits for total incapacity and lower level of benefits for partial incapacity;
- more scope to take a higher tax free lump sum and a lower level of pension;
- a facility to purchase up to £ 5.000,00 of added annual pension;
- an increase in the death grant to 3 times salary; and
- phased retirement arrangements that would enable STSS members under defined circumstances to continue working as a teacher within the STSS while drawing down some or all of their accrued pension benefits.

The National Health Superannuation Scheme in Scotland

What's changing in the NHS pension scheme?

We are proposing a revised scheme for existing staff and a new scheme for new entrants – but existing members will have the choice of moving to the scheme for new entrants. The option exercise is likely to be in 2009.

Proposals for staff who are currently paying into the NHS pension scheme (to come into effect no later than April 2008):

- a final salary pension – calculated on the highest pensionable pay in the last three years of paying into the pension scheme;
- normal pension age 60 – but 55 for special retirement rights, such as mental health officer;
- take more of the pension as a tax-free lump sum – choose to take a bigger lump sum of up to 25% of the value of the pension fund in return for a smaller pension, giving more flexibility on retirement;
- partner pensions – all eligible partners will get a survivor pension;
- survivors pensions for life – partners will now continue to get their survivor pension if they re-marry or co-habit;
- contribution rate will change – contributions will depend on earnings;
- a range of further improvements – including what service and earnings count for pension; the benefits that are payable in the event of death, and re-employment;
- retention of the Career Average Revalued Earnings (CARE) pension - for General Practitioners and Dentists.

The proposed scheme for new entrants (to come into effect by the end of 2007):

- a final salary pension – this will be based on the average of the best three consecutive years in terms of earnings, in the last 10 years of working;
- a normal pension age of 65 years – new entrants will get their normal pension at the normal pension age of 65 or can retire later, up to the age of 75, on a larger pension;
- higher accrual rate – the new scheme will have an accrual rate of 1/60th, accumulating more pension for each year of service;
- more options on how much new entrants take as a tax-free lump sum – ranging from taking all their income as pension but no lump sum, to taking up to 25% of their pen-

sion value as a lump sum with a reduced pension – or flexing anywhere between the two. Annual pension payments will depend on the size of lump sum taken;

- partner pensions – eligible partners will get survivor partner pensions for all the membership years;
- contribution rates will be linked to individual earnings – contribution rates will be the same as those for members of the existing scheme;
- a range of further improvements – including what service and earnings count for pension, the benefits that are payable in the event of death, and re-employment;
- a CARE pension – for new practitioner members.

Consultation on both these proposals will conclude early in 2007.

Other items of news from Scotland include:

The introduction of the European Directive on age discrimination from December. This has meant that regulations relating to enhancement of pension on early retirement have had to be reviewed in order to prevent certain members receiving an unfair advantage because of age.

Work is now underway to review the Local Government Pension Scheme from 2009 – more on this another time.

The NHS Scheme is being extended to include Church of Scotland Chaplains who work in hospitals.

From January we will bring our NHS payroll contract back in-house. This means that we will provide a cradle to grave service for both the NHS and Teacher Schemes.

Finally, SPPA have now decided on our new Pension Administration IT provider, and work will shortly commence to develop functionality and plan for migration. This will allow us to look for new business opportunities in the years to come.

Ian Clapperton

Original language: English

Strategic and operational management in public sector pension institutions

All – or at least most – pension institutions of the public sector are managed by two different management bodies. The technical “daily” work is executed by the operational management, mostly

represented by a manager or a Board of managers. Political “basic” decisions, however, are made by the strategic management, often through a Board of Trustees or a Governing Board. Both entities (i.e. the operational and the strategic management) are separated either by law or by the statutes of the respective pension institution.

The following article gives an overview about the relationship between the operational and the strategic management within European pension institutions of the public sector with the focus on the role and the liabilities of the Governing Board. An overall presentation of corporate governance is, however, not provided in this context. The term ‘corporate governance’ deals with the processes and systems an organisation operates by. The word is of Latin origin that suggests the notion of ‘steering’. Corporate governance aims to:

- align the actions of the individual parts of an organisation toward aggregate mutual benefit,
- provide the means by which each individual part of the organisation can trust in the other parts all making their contribution to the mutual benefit of the organisation and none gaining unfairly at the expense of others,
- provide a means by which information can quickly flow between the various stakeholders to ensure that both the stakeholders’ needs and desires and the environment in which the organisation operates get effectively factored into decision processes.

However, corporate governance also includes the relationship between and the distribution of rights and responsibilities among other persons outside the management, like regulators, staff and customers, i.e. target groups, which will not be subject of this overview. Instead, the focus will be narrowed onto the relationship between the Governing Board and the Board of managers.

Basis of this article are the statements of the following pension institutions of the public sector (alphabetic order) to a questionnaire that has been distributed in the second half of 2006:

- ABP (The Netherlands)
- BVK (Germany)
- CGA (Portugal)
- CNRACL (France)
- ESPV (Spain)
- IRCANTEC (France)
- KEVA (Finland)
- KPA (Sweden)
- RAFFP (France)

- SPPA (Scotland – Great Britain)
- SPV (Sweden)
- VBL (Germany)

1. Role and competence of the Governing Board

The competence of the Governing Board – and thus its role – is determined by the legal regulations which set up the framework for the respective pension scheme. With a view to the extent of its competence, a distinction has to be made between strategic and operational questions, even if it is difficult sometimes to draw a net distinction between the two terms. Whereas the Governing Board of all pension institution is competent for operational matters, its competences in strategic issues is sometimes reduced or (partially) submitted to the approval of the Ministry that exercises the supervision of the scheme.

a) Strategic questions

Strategic questions are issues of basic importance that concern the future orientation of the respective pension scheme. In some institutions (e.g. ABP, BVK or VBL), Social partners of the public sector have the legal authority to determine the content of the scheme plan. The Governing Board of the pension fund makes – at a second step – the decisions about the strategic orientation of the pension fund in order to fulfill the guidelines of the Social Partners. At a third and last step, the Board of managers is in charge of the operational execution, thus being submitted to the decisions and the supervision by the Governing Board.

In other institutions, however, like at CNCRAL, the Governing Board has got no power for strategic management, principally because it is a statutory pay-as-you-go scheme. In this case the Governing Board is merely an advisory body, which is not even consulted in the case of modifying the contribution rate, since this decision is to be taken by the Government. In other pension schemes, like CGA, all strategic decisions must be submitted to the Ministry of Finance because this pension schemes belongs to the first pillar.

b) Operational question

The competence of the Governing Board also covers operative decisions. It supervises the executive management of the scheme and sees that the current administration is effective and in accordance with the internal and legal regulations. In contrast to strategic questions, the Governing Board of all public pension institutions is competent in this field. Thus, it decides, for example on the following issues:

- the scheme statutes as well as on amendments of the statutes,
- the annual report and the annual accounts of the last year,
- the budget for the next year,
- the membership in associations,
- the contribution rate to be paid by the members as well as the appropriation and distribution of a surplus,
- the affiliation of new members in some cases,
- the engagement of new employees in a leading position (e.g. management director),
- the remuneration of executives,
- others, like the conditions of validation of past services for certain categories of employees or about employers' request relating to penalties for late payment of contributions.

With a view to investments issues, the role of the Governing Board generally depends on the financing method of the respective scheme, i.e. it is more important in fully funded institutions and consequently less important in pay-as-you go systems because of fewer investments. Examples for matters to be submitted to the Governing Board are:

- the approval to guidelines for the scheme's investments as well as setting limits for the investment department,
- the supervision of the activities of the investment agencies mandated by scheme and the contracts with external asset managers,
- the decision upon large real estate investments,
- the appointment of the actuary (if he is foreseen according to the statutes of the concerned scheme),
- the determination of all actuarial parameters and the point values, reference salaries, contribution rates.

c) Interchange between operational management and the Governing Board

Despite the net distinction between the tasks of the Board of managers and the Governing Board, there is quite often a close cooperation and a permanent interchange between these two entities. The Governing Board usually depends on the knowledge and practical experience of the Board of managers. In some schemes (e.g. ABP, SPV, ESPV) the operational management (Board of managers) takes part in the discussions about strategic questions and gives advice to the Governing Board without having a voting right. At BVK, VBL or KEVA, the operational

management prepares and works out strategic questions regarding the scheme and prepares all decisions for the Governing Board since the members of the Governing Board are not necessarily experts in pension or investment issues. Therefore, the cooperation of the management in strategic decision-making is crucial. The operational management thus takes part at least indirectly in preparing the strategic orientation of the pension scheme.

d) Governing Board and supervisory authorities

All pension institutions of the public sector are furthermore submitted to supervision, mostly executed by a Ministry (of the Interior in the case of KEVA and BVK or of Finance at VBL), by the national Financial Supervisory Authority (KEVA, KPA and partially VBL as to its voluntary branch) or by the National Bank (of the Netherlands in the case of ABP). Finally, supervisory authorities are implemented at the regional and national governments (ESPV).

However, in none of the schemes there is such an intensive cooperation between the Governing Board and the supervisory authorities like between the Governing Board and Board of managers. Board decisions are usually not submitted to the supervisors before being implemented. Nevertheless, important changes are usually discussed with the supervisory authorities beforehand to ease a later implementation.

2. Composition, election and practical work of the Board members

The size of the Governing Board varies according to the scheme. It goes from 3 (CGA) to 32 (BVK) members. Usually, both the employers and the employees are represented in this committee – sometimes to equal parts. Sometimes (e.g. CNRACL) the group of employers is composed according to specific groups (local governments and hospitals), as well as the group of employees (active members and pensioners). Some institutions (e.g. ABP) foresee an independent non-voting chairman who is elected by the members of the Board.

However, the composition of the Governing Board is not restricted to the the Social partners. Supplementary independent experts within this committee and representatives of the supervisory authorities (RAFP) are foreseen by some schemes. The Governing Boards of SPV and of CGA, for example, merely consist of representatives outside the Social partners. In some cases, also the operational management has got the right to be present and participate in the discussion of the Board.

Board members are either directly appointed by the Social partners or nominated by them and later

appointed by the competent supervisory authority (BVK). In some schemes (RAFP and CGA), the members are appointed by the Government. Their background is mostly quite different, since usually, no special expertise is required. Yet, most of the members of the Governing Board are financial experts, jurists and politicians. The duration of their mandate varies from 1 year (KPA and SPV) to 6 years (BVK and CNRACL). Board members are usually not paid in “southern” Europe (including France with the exception of ESPV) for the time they dedicate to their activities, whereas they receive either a fixed income (per year or per meeting) in the “central” and “northern” countries.

In most pension institutions of the public sector, the Governing Board is divided into several technical committees, as for example at CNRACL into:

- a social action committee,
- an accounting committee for financial and budgetary questions,
- a committee in charge of development and loans to local governments,
- a committee for disability and prevention of occupational risks,
- a committee for questions relating to regulations.

Board members execute a demanding job, which usually requires good knowledge and experience in pension and investment matters. Decisions in pension issues often last over several decades and concern an enormous value. Therefore, the questions of personal responsibility in case of a false decision and of coverage through a (special) insurance are of crucial interest for any member of the Governing Board. Since in many schemes, particularly in the “northern countries”, Board members are legally responsible for their decisions, they are covered by a liability insurance – or at least have got the possibility to get insured against that risk. In Portugal, a new legal framework is currently prepared in which a compulsory liability insurance is foreseen.

Usually, the Governing Board meets between 1 and 12 times a year. Often, exceptional meetings can be scheduled on request of the chairman, of a quorum of Board members or of the supervisory authority. Thus, the meetings have to be thoroughly prepared and Board members have to be assisted in order to be able to fulfill their function. The operational management service therefore provides assistance through human resources (secretariat, administrative assistance) and material means (e.g. meeting rooms) in various ways, as for example:

- administrative assistance for meetings (preparation of agendas and minutes, provision of documents),

- accommodation and travel booking for Board members,
- regular information about all issues, which might concern the Governing Board,
- sometimes training sessions on all issues that are required for a good fulfilment of the tasks (especially in legal and financial matters),
- an extranet website dedicated to the Governing Board (established for example by the French schemes CNRACL, IRCANTEC and RAFP).

3. Conclusions

The Governing Board takes a quite important position in the pension funds of the public sector. Even if its competences vary from one country to the other, there are many common structures which place the Governing Board between the operational management for the current work and the legislator or the Social partner who determine the scheme structure. Board members must be willing to assume responsibility; therefore, they need – besides the full assistance – a permanent dialogue with the management units.

Hagen Hügelschäffer
Original language: English

Supplementary Pension Schemes in Spain

INTRODUCTION

In Spain, the pension system is supported basically by the first pillar as it represents a 75 % to 85 % average coverage of the last salary. This fact hinders the development of the second and third pillars.

The Public Administration has a basic instrument at its disposal in order to promote the foresaid development of the supplementary pension system: Fiscal Policy.

Up to this date, the specific fiscal regulation of the supplementary pension system in Spain has focused on the treatment of contributions basing fiscal regulation on the Personal Income Tax deductions of the amounts contributed, both by the employer and the employee, and limiting them with deduction ceilings.

Benefits are subject to fiscal regulations, adding them to the general fiscal base and being taxed as labour income.

The Spanish tax system classifies supplementary pension schemes as EET: contributions and returns

are exempt, while tax accrual takes place at the moment of receiving the benefits.

Regarding the returns yielded by the pension funds, they are taxed under the companies' tax at rate zero, benefiting the profitability of the pension schemes.

However, if the manager were a Mutuality in the State, the tax rate would be a reduced one for companies of 26% instead of the standard 35%.

1. Limits

1.1. Formerly there were separated limits to the personal and companies' contributions, being 8.000 € in both cases, though they could be increased by an additional sum of 1.250,00 € for every year over and above the age of 52, with a maximum limit of 24.250,00 € for participants aged 65 and over. Nowadays, the limit is joint, being the lowest of the following two amounts:

1.1.1. 30% of the annual income. From the age of 50 onwards, the limit rises to 50%.

1.1.2. 10.000,00 € / year. From the age of 50 onwards, the limit rises to 12.500,00 € / year.

The amounts contributed in order to insure defined benefit schemes are set aside of these limits.

1.2. The foresaid limits apply to the total amounts contributed to supplementary social insurance schemes as a whole. If the limits are surpassed by the contributions, the excess could be deducted over the following five years.

1.3. The benefit can be received, depending on the receiver's will, as a lump sum or as an annuity, and is taxed entirely by the Personal Income Tax. Until now, if it was received as a lump sum there was a Personal Income Tax exemption of 40 % of the total amount received which is lost under the new tax treatment; in the Basque Country this exemption does not vary, it remains the same.

These variations are not applicable neither to the amounts contributed prior to 31 December 2006 nor to their returns.

1.4. Contributions made in favour of the spouse are deductible as well, with a limit of 2.000,00 € / year, and they can only be made in case the spouse has yearly earnings - if any- below 8.000,00 €.

1.5. The same applies to contributions made in favour of persons with physical or psychic disabilities whose future benefits will be exempt only in case they do not exceed certain limits.

1.6. Temporarily, until 2011, the contributions made by companies for the benefit of their employees are tax deductible: 10 % in the companies' tax quota.

1.7. Accrued rights cannot be recouped prior to becoming liable to it, except two cases: long term unemployment and serious illness. In the Basque Country, there is the possibility of recouping contributions 10 years since the first contribution was made. In this case, the tax treatment is as if it were a benefit received as a lump sum.

2. Mobilization

Mobilizations between systems have been possible among equal products only. With the new Income Tax Law, mobilizations between different products are allowed, but the legal rules governing the process must be developed.

3. Supplementary Insurance Schemes

Supplementary schemes can be pension plans or pension funds. With respect to products, offered by insurance companies, they can be:

- Retirement Plans
- Mutual Benefit Societies
- Insured Insurance Plans
- Business' Social Insurance Plans
- Dependent Care Insurance

Finally, in the Basque Country, there are still voluntary insurance social entities and voluntary benefit insurance entities.

Amaia Aldasoro

Original language: English

European association of public sector pension institutions

Secretariat General:

Denninger Straße 37, 81925 Munich, Germany

Tel.: + 49 (0) 89 9235-8077 - Fax.: + 49 (0) 89 9235-8599 - eapspi@versorgungskammer.de - www.evvd.eu