

The newsletter of the European Association of Public Sector Pension Institutions

National updates - Sweden

Swedish Government occupational pension

A brief summary

The National Government Employee Pensions Board (SPV) has managed the government pension scheme, with its roots in the 17th century, since 1963. In the course of over forty years there have been a lot of changes. The pension schemes were originally regulated through legislation but from the mid seventies they have been subject to collective agreements.

- We have received the new pension agreement and on this basis, we have been able to develop clever solutions for our customers, says Catharina Ottander, Director of PR & Communications.

The latest government pension agreement, henceforth referred to as PA 03, was reached between the Swedish Agency for Government Employers (AgV) and its counterparts among the organisations representing Swedish employees in December 2002. The agreement is effective from January 1st 2003. The agreement encompasses those who were born in 1943 or later. Those who were born 1942 or earlier are still encompassed by the older agreement.

PA 03 consists of both a defined-contribution pension and a defined-benefit pension. The defined-contribution pension will gradually replace the defined-benefit pension of the current agreement for employees with lower income and it will be a supplement to the defined-benefit pensions for employees with higher income. Deposits are made by your employer and they fund defined-contribution pensions. Defined-benefit pensions are predetermined, most commonly they are set to be a certain percentage of your income.

The agreement on government occupational pension allows for the employers to comply with new laws and regulations prohibiting discrimination against employees working part-time or on temporary employment. The new agreement also caters to the needs of children through the defined-contribution pension, an employee continually gets deposits made whilst on parental leave for a maximum period of up to 18 months. In the new agreement there is also a strengthening of the survivor's pension that children are eligible for.

Edito

The challenges raised by demography and globalisation do affect many aspects of European citizens' life. In its Green Paper on "Confronting demographic change: a new solidarity between the generations", the European Commission intends to present the impact of such challenges in all areas of our life, including of course pensions which, in this context, will have to be guaranteed in the long term in a sustainable way.

The European Commission as well as all Member States must actively face these challenges. At European scale, several actions have been initiated, such as the Open Method of Co-ordination or more recently, the proposal for a directive on improving the portability of supplementary pension rights. These actions are developed in a context that nobody would deny although the envisaged measures are not always unanimously and fully approved.

At national level, legislators are convinced that fundamental reforms are unavoidable. The Turner Report, for example proposes to the British Government to postpone retirement until the age of 67. The same proposal is also actively debated in Germany within the new coalition and in Spain too. Our Special schemes cannot keep away from this debate.

Demographic changes as well as other factors will determine the pace of pension reforms. Reforms will never come to an end, they will become a permanent process which will have to take into account all interested parties.

Hagen Hügelschäffer
Original language : French

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Defined-contribution pensions

The system of defined-contribution pension is based on a principle whereby the employer deposits a sum equal to a fixed percentage of the salary every month. These deposits will add up to the future pension of the individual.

There are two different kinds of defined-contribution pensions in PA 03, an individual pension and a supplementary pension. The supplementary pension will henceforth be referred to as Kåpan. An employee is eligible for Kåpan from the age of 28 and onwards. The employer deposits 2 % of the disbursed salary into the care of Kåpan pensioner, the organisation appointed as being the manager of the deposited funds for Kåpan.

One of the novelties in PA 03 is an individual pension. The system of individual pension is based on the right of the employee to determine how his or her future pension funds should be managed. The employer continually deposits 2,3 % of an employee's salary from the age of 23 onwards.

Thus, under the terms of the new agreement, a total equalising 4,3% of each wage payment will be deposited. Out of that percentage a total of 2,3% will be at the discretion of the employees themselves, allowing for the individual to make decisions on how the funds of his or her future pension should be managed.

SPV is the appointed election office co-ordinating the administrative business associated with the individual pension benefit, such as for example changing the manager of the funds. SPV shall be seen as a connecting link between the employee and the manager of the employee's funds.

Part-time pension

Another novelty is the creation of a part-time pension. The part-time pension is regulated in a separate agreement. This agreement is also effective from January 1st 2003. To be eligible for a part-time pension, an employee must have a minimum of 10 years of employment that is connected to a pension entitlement regulated through collective agreement. The right to a part-time pension is not guaranteed, the decision whether or not to grant a part-time pension is at the discretion of the employer, although there is a strong recommendation to accommodate the employee's wish.

Provided that these conditions are met, an employee who is 61 years old may have the opportunity to reduce the office hours worked until he is 65 years old, which is the retirement age, without a corresponding reduction of the salary. For example an employee with a part-time pension may work only 50% of his or her regular hours and still maintain 80% of the salary. The partial pension can't be paid after age 65, so if the employee chooses to work until he or she is 67 years old, he can't have the partial pension during the last two years. The employee can nowadays voluntarily stay in service until he or she is 67 years old.

Since the agreement on partial pension is separate from the agreement on government occupational pension there is no prerequisite governing year of birth in the agreement on partial pension. Any employee may apply for this benefit independent of whether or not their year of birth is before or after 1943.

Defined-benefit pension

Employees with an annual income higher than 7,5 income base amounts will be eligible for a defined-benefit pension as well as a defined-contribution pension. 7,5 income base amounts equals a monthly income of about 27.000 SEK or approximately 3000 Euro. This defined-benefit pension is based solely on the part of income that exceeds 7,5 income base amounts and is set to be approximately 60 % of that salary under the condition that he or she has served for at least 30 years.

The defined-benefit pension is contrary to the defined-contribution pension pay-as-you-go.

Survivor's pension

If an employee dies before reaching the age of retirement the closest family survivors will get a survivor's pension. A survivor's pension is limited in time; it will be disbursed for a maximum of 6 years.

Disability pension

The employee can in case of disability be granted a disability pension for a certain amount of time or for lifetime. If he or she has a temporary benefit from Social Security the employee is only entitled to a temporary benefit according to PA 03 and if the employee is considered to be unfit for further work he or she will get a disability pension for lifetime.

The recent evolution

The Swedish Social Security system was subject to a total reform during the 90's that all main political parties agreed on. They all saw a great need for a reform as the population grew older and the current system was too expensive and couldn't meet the needs for the future. The new system that's effective from 2003 is based on the principle of life-income instead of the fifteen years with your top income. The principle of life-income means that your total income above a certain level counts regardless of your age. It is basically a non-funded system, but a smaller part is funded. The individual can choose where to put his or her money and right now there is a selection of 700 different funds to choose from. There is a lot of debate about the abundance of funds and that very few people switch to another fund although the growth of their present fund isn't sufficient.

Almost all occupational pension systems in Sweden have recently been reformed except the TIP-system for white-collar private employee (the biggest one according to the number of insured), which still is a completely defined-benefit system. All the other systems have changed into fully or partly defined-contribution systems due to the need for the employer to be able to calculate the costs and to keep them as low as possible. In order to keep the costs low even the benefit levels have sometimes been reduced.

What's significant for the government occupational pension today?

It's a scheme that's much more suitable for actuarial calculations and one advantage for the employee is the possibility to choose a fund for the individual part and an advantage for the employer is that there is a greater part of defined-contribution pensions.

Facts about SPV

The National Government Employees Pensions Board (SPV) was established in 1963 and is today one of largest providers of pensions administration in Sweden.

We pay about 350,000 pensions each month at an annual value of 10 billion SEK. SPV has 345 employees.

Pension administration involves applying the rules of pension agreements and computing and paying the different components of the pension. We would be pleased to share with you our extensive knowledge and many years of experience of pension administration.

Gunnel Carré, Head of Pension Affairs at SPV
Original language : Swedish

The new collective agreement for employees in the local government sector

A new collective agreement will replace the present PFA98 as of January the 1st 2006. PFA98 has been in force since 1998. The main objective for the change, from the employer's perspective, is to reduce the accelerating cost of the defined benefit element, supplementary old-age pension, in the pension plan.

Occupational old-age pension for local government employees consists of a mix of elements, defined contribution and defined benefit.

Defined contribution (individual element)

- 3,4 - 4,5 percent on salary up to 33 983 EUR. Accrual from 21 years
- 1,1 - 2,1 percent on salary above 33 983 SEK. Accrual from 28 years.

Defined benefit (supplementary old age pension)

- 62,5 percent replacing salary within the range of 33 983 to 90 684 EUR.
- 31,25 percent replacing salary within the range of 90 684 to 135 932 EUR

Accrual of the defined benefit begins when the individual is 28 years old.

Main characteristics of the new agreement

The element of defined benefit

- A lowering of the replacement rate. In the new agreement, the replacement rates will be lowered to 55 (62,5) and 27,5 (31,25) percent for individuals born in 1967 or later. For individuals born between 1947 and 1966 a gradual adjustment will take place. Individuals born in 1946 or earlier will not be affected by the change.
- Increasing the floor for accrual of supplementary old-age pension. This level was previously determined by the value of the increased price base amount¹, decided each year by the government reflecting changes in price index. As a consequence, the number of individuals entitled to supplementary old-age pension has increased significantly over the years due to increases in real salary level. In the new agreement, the floor is instead determined by the income base amount, which is higher than the increased price base amount. Yearly adjustment of the floor will thus be based on general increase of the salary level.
- Years of employment before 1998 will be taken into account. The main objective, from the employee's perspective, has been to secure that years of employment before 1998 should be taken into account in the time factor of supplementary old-age pension. Full supplementary old-age pension requires 30 years of employment. In the previous collective agreement, only years of employment from 1998 were taken into account in the time factor of supplementary old-age pension.

The element of defined contribution

- An increase of the rate of contribution. The new agreement increases the significance of defined contribution components in the pension scheme. The contribution rate will gradually be adjusted to 4,5 percent and calculated on total salary. As mentioned above, in the present agreement, contribution rates for incomes above 33 983 EUR is 1,1 – 2,1 percent.
- A lowering of age. The minimum age for contribution to the individual element calculated on incomes above 33 983 EUR, will be lowered. Contributions from 2007 will be made from the year the employee is 21 years old (28 years at present).

The significant higher contribution to the individual element, for which the employee has the right to decide to which insurance company the contribution should be made, will presumably intensify competition among the insurance companies. Each year the employee can decide to change from an insurance company to another, to which the contributions will be made in the future.

¹ The provisions on the increased price base amount is governed by law. It changes mainly in accordance with the prices of goods and services (the consumer price index). In 2005 the increased price base amount is 4 217 EUR. The income base amount changes in accordance with the salary level (the income index) and the amount is 4 531 EUR (2005).

In the new agreement, a yearly contribution for an employee not exceeding 45 EUR, will generate a payment to the employee instead of a premium to a pension insurance. This is considered to be a more cost efficient way to administer contributions made for the large group of employees with short periods of employment.

In the new agreement, from 2007, part-time pension will be introduced. The agreement gives the employer a right to negotiate the duration of part-time pension for each individual who applies for this benefit. It also gives the employer the freedom to negotiate replacement rates of part-time pension.

The new agreement will consist of a number of rules with the objective to secure a fair pension for those individuals whose benefits are mainly accrued due to the rules in the old agreement. This will inflict a considerable administrative burden to KPA. Pension. For example, during a number of years, pension calculations for supplementary old-age pension has to be duplicated and the outcome of each single operation has to be compared. If the amount of pension is lower as a consequence of the new agreement, employees affected will get an additional amount representing the difference in total pension between the new and the old agreement.

Johan Sjöström
Original language : English

National updates - UK

WHAT'S HAPPENING IN SCOTLAND ?

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PUBLIC SERVICE PENSION REFORM

Following the UK Public Services Forum meeting on 18 October, UK Government announced that agreement had been reached on a framework of principles for taking forward pension reform for the NHS, teachers and the civil service. Previous negotiations had stalled before the last UK election as the unions disagreed with the Government's proposals for existing scheme members to have their normal pensions age moved from 60 to 65.

The agreement sets out that existing members should suffer no detriment in terms of their normal pension age. In other words NPA 60 is retained indefinitely for existing staff and a new NPA 65 will be introduced for new staff. As you can imagine this news has not been welcomed by the media and the UK Government is receiving much criticism for capitulating to the unions.

Teachers and NHS pension schemes

The UK Government's timetable requires that each of the individual pension schemes negotiate detailed proposals for reform by March 2006 and that these are subsequently agreed following consultation by June 2006. The new schemes are to be introduced as soon as possible thereafter. SPPA, in concert with analogous England and Wales bodies, expects to implement the new provisions from April 2007. Although the Scottish schemes will be expected to retain consistency with their England and Wales counterparts and to remain within a specific cost envelope determined by HM Treasury, there is limited flexibility for Scottish-specific variations where these can be justified and agreed with HMT.

SPPA therefore intends to rejoin discussions with the Teaching and NHS unions and employers at UK level and then move forward in Scotland in partnership meetings via the groups which had already been established for the previous pension reform proposals earlier this year.

Local government pension schemes (LGPS)

The LGPS is not covered by the PSF announcement. The scheme is different in that members already have a normal pension age of 65 so the same reforms are not required. The funding arrangements for the scheme are also different from other public sector schemes in that they rely on active fund

management rather than being underwritten by Treasury. Although written HMT consent is not required for changes to the scheme in Scotland there must be approval together with compliance with policy and financial controls set by the UK Government.

The main reform issue concerns the removal of a special rule (the rule of 85) which allows certain members to retire as early as 60 without reduced benefits. This rule has to be removed by October 2006 to comply with EU age discrimination legislation but an earlier consultation proposed protection for those members who would reach age 60 by 2013. There may now be pressure from the unions for all existing members to be protected following the PSF agreement for the other public schemes.

A Tripartite group between Government, unions and employers in England and Wales has been established. Their primary remit is to identify measures required to recoup scheme funds caused by the failure to withdraw the rule of 85 in April 2005 which was originally proposed for the E&W scheme. In Scotland no such change was proposed [it was always intended to wait until October 2006] however a discussion group involving unions, employers and SPPA has been established in order to discuss developments in E&W and consider the best way forward for the scheme.

CIVIL PARTNERSHIPS

EU Directive 2000/78/EC (“The Employment Directive”) established a general framework for equal treatment in employment and occupation. It provided that *“any direct or indirect discrimination based on religion or belief, disability, age or sexual orientation... should be prohibited throughout the Community.”*

Same-sex couples currently have no way of gaining a legally recognised status for their relationships. The current unavailability of a legal status for same-sex couples means that they are denied access to most of the rights that are given to married couples, including access to occupational pension scheme benefits which are reserved only for married partners. Couples who have supported each other financially throughout their working lives often have no way of gaining such rights.

Civil partnership is an important equality measure for same-sex couples who are unable to marry each other. It would provide for the legal recognition of same-sex partners and give legitimacy to those in, or wishing to enter into, interdependent, same-sex couple relationships that are intended to be permanent. Civil partnership would provide a framework whereby same-sex couples could acknowledge their mutual responsibilities, manage their financial arrangements and achieve recognition as each other’s partner.

Changes to the main public service schemes in both England and Wales and in Scotland are planned so as to provide access to benefits for the partners and children of same-sex relationships, where the scheme member dies, in the same way that spouses and children’s pensions are available in the case of married members.

Latest position

The landmark Civil Partnership Act will be brought into force on 5 December this year. Any couple wishing to form a civil partnership will be able to give notice of their intention to register at a Register Office from that date.

We have now made the necessary amendment regulations making provision for civil partners in the schemes covering Teachers and NHS. The amendments for the LGPS, Police and Fire are almost complete and will be in force early December.

FINANCE ACT 2004 – TAX SIMPLIFICATION

Very briefly the Finance Act 2004 will:-

- Allow members to save 100% of their earnings for pensions
- Allow savings growth of up to £215k each year
- Establish a lifetime allowance limit of £1.5m on pension savings

- Permit members to take up to 25% of the value of pension savings as a tax free lump sum
- Introduce the concept of combining work and retirement

The Finance Act 2004 presents the opportunity to change the existing scheme regulations and some of the possible changes could include the following :

- Option to take a bigger lump sum
- Removal of overall 15% limit on contributions
- Possibility of removing limit on number of years service that can be accrued
- Higher level for trivial commutation
- Review of abatement rules
- Combining pension (from age 55) and continuing to work and accrue further pension
- Removal of earnings cap

In the case of the LGPS we are presently considering all of the above to be introduced alongside the changes to the scheme brought about by the removal of the rule of 85. This will radically alter the shape of the scheme but at the same time may also reduce the overall cost of the LGPS.

For the other schemes nothing dramatic is being planned for next year. The 15% limit on payments to Additional Voluntary Contribution [AVC] arrangements will be removed but that's about it. We will consider additional changes when discussing the new schemes with unions and it is possible that some improvements will be introduced to the existing schemes at that time.

Police and Fire Pensions

It is planned to introduce new schemes next year and we have just concluded a period of consultation on the proposals. The changes are likely to be in place around next summer. I will provide details of the new look schemes later.

System Administration

SPPA administers the schemes for both Teachers and NHS in Scotland. Our existing administration system has to be replaced and we are currently engaged in the process of developing our requirements for a new system. For those of you with a technical background our formal procurement exercise will commence early next year with the publication of our invitation to tender in the appropriate European journals. It is hoped that we will be fully operational with our replacement system by April 2007.

Miscellaneous regulatory activity

Recently we have completed the regulatory process on the consolidation of the Teachers scheme, amended the NHS scheme to include new arrangements for general practitioners brought about because of changes to their employment contract and introduced changes to the Police scheme to deal with part-time officers.

Who said pensions were boring?

Ian Clapperton
Director of Operations SPPA
Original language : English

National updates - Germany

Case-law following the reform of the supplementary scheme for public service and churches staff

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1. Introduction

The approval of a new collective agreement signed by the social partners on 13 November 2001 gave birth to a complete reform of the scheme. The old top up scheme was replaced by a point system which applies to all public service and church staff (see EPB n° 12 of April 2002 and n° 10 of August 2001).

This agreement provides some rules for the conversion (or transfer) of accrued pension rights into a “starting capital” in the new point system. The parties involved had chosen this process to avoid maintaining the old scheme over a long transition period, which would have generated management problems.

Regarding the calculation of the transferred pension rights, two groups of employees were established. Those who, at a certain date, were close to retirement age (older employees) and those who were far from retirement (younger employees). Dormant pension rights of early leavers (having left the scheme before 31.12.2001) were calculated according to the old insurance annuity system and then transferred.

Older active members

The employees aged 55 and over on 1 January 2002 had their accrued rights calculated according to the old legislation. The resulting amount was then converted into pension points.

Younger active members

All the other active members had their pension rights determined according to the law on occupational pensions, and subsequently converted into pension points. First, a retirement pension was calculated on the basis of the 91.75 % maximum net rate. The total pension was determined according to the usual rules in force to date. The basic pension was then set as a fixed sum calculated through an approximation method. The difference between the total pension and the notional basic pension indicated the amount to be taken into account for the occupational pension (at full rate). 2.25 % of this full rate benefit were transferred towards the new scheme for each year of service completed before 31.12.2001.

About 5 Million employees working in the public service and churches had their pension rights transferred. It is natural that all of them did not fully agree with the proposed conversion. Therefore the scheme received a huge number of claims, some of them being brought to court. Since the end of 2002 / beginning of 2003, the supplementary pension institutions (i.e. VBL and the pension institutions for municipalities and churches covered by AKA) have received 500,000 claims from which 5,000 have given rise to legal action.

As in many other countries, the claimant can bring the case to a court of first instance. Such a process can be followed by an appeal to a higher court. Up to date, we have had legal decisions from the Appeal Court of Karlsruhe that will be presented later on. There is also a decision of the Federal Court of Justice about the way to take into account maternity leaves, a question which gave rise to a prejudicial question presented to the European Court of Justice.

2. Judgement of Karlsruhe Appeal Court regarding “starting capitals”

On 22 September 2005 the Court of Appeal of Karlsruhe gave a decision regarding “starting capitals” for the category of the younger members. The Court stated that the transition rules governing the calculation of the starting capital were not confirm to higher legislation, which means that these starting capitals might not be definitively settled. However the Court did not condemn the system by itself. The court declared that it is not competent to give the value (a higher one) of the starting capital. This would come against the autonomy of the social partners which is guaranteed by the German Constitution.

According to the Court, the social partners should review the calculation method in accordance to the provisions of the higher legislation. The Court considered the approximation method on which the calculation is based as an abuse of power against the members.

VBL appealed against this decision to the Federal Court of Justice. No decision has been made to date. From VBL's point of view, the transition rules at issue are in accordance with the law on occupational pensions and are therefore legally valid. They are also in accordance with the case law on the assessment of pension rights accrued during the vesting period of the old top up scheme, and also with the evaluation of pension rights in the case of pension sharing upon divorce.

However, the Court of Appeal considers that it is unacceptable to use a fixed rate approximation process for the determination of the notional basic pension involved in the calculation. It considers that the argument of excessive administrative work load resulting from individual calculations is only a pretext. It could be answered to the Court that it only takes into consideration the administrative burden of one individual calculation, and not the administrative work for the 5 million members of all public services institutions and churches covered by the scheme. Such a huge volume of calculations would have made the reform of the scheme impossible to achieve on time. In addition, it is far from certain that the basic scheme institutions would have been able to provide millions of information at once.

It must also be noted that the Court has not interpreted accurately the figures that were provided. For example the Court stated that the amount of the basic pension calculated with approximation method is sometimes higher than the actual amount. VBL has just checked the figures and it appeared that the figures used by the Court do not refer to actual pension amounts. Therefore the comparisons made by the Court rely on figures that are not comparable.

It is also hardly understandable when the Court of Appeal argued that the social partners have not considered the financial consequences of a "strong protection of entitlements" for the youngest category of members, contrary to what was done for the older category and the pensioners. The social partners have been particularly concerned with the financial situation, that is precisely why they have protected the entitlements only for the oldest members, going beyond the requirements of the law on occupational pensions.

3. Judgement of the Federal court of Justice on maternity leave enhancements

Another judgement will impact public service occupational pensions, although economic consequences will be more limited; Further to the Mayer case (ECJ – C-356/03 of 13 January 2005), the Federal Court of Justice decided, on 1 June 2005, that the exclusion of maternity leaves for the calculation of pension under the old top-up scheme regulation, is in breach with art 6 (1) (g) of Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes.

The origin of this judgement was a legal action taken against VBL by a former employee previously affiliated to this scheme. During her labour contract, she had two legal maternity leaves of 14 weeks for each of her children, i.e. a total leave of 28 weeks. The law on the protection of working mothers provides for a leave of 6 weeks before birth and 8 weeks after birth. These periods are subject to variations in particular situations.

During this maternity leave, mothers receive first, a maternity allowance paid by the national health insurance. In short, this allowance amounts to the average daily remuneration calculated over the last 3 months, after deduction of social charges. It is limited to € 13 per day. In addition women receive a supplementary maternity allowance to compensate the gap between the State allowance and their salary. Contrary to the maternity allowance which is a legal benefit, the supplementary allowance is paid by the employer.

Both benefits are tax-free.

For these benefits, the old top-up scheme used to make a distinction between the dynamic pension and the insurance annuity. The dynamic pension (always higher) was paid to the employee in service until retirement. The insurance annuity was paid to early leavers. According to regulations, the monthly

amount of the insurance annuity was calculated on the basis of all remunerations subject to occupational pension contributions, which were also taxable remunerations. As the maternity allowance and the supplementary allowance were tax free, they were not considered as remunerations to be taken into account for the calculation of the insurance annuity.

The ECJ considered this provision as an infringement of art. 6 (1) (g) of Directive 86/378/EEC. Any provision allowing an interruption of preservation or accrual of occupation rights, because of a maternity leave provided either by law or by collective agreement, or because of any other family leave paid by the employer, is in breach with the principle of equal treatment for men and women. The ECJ rejected the argument of VBL which advocated that the old insurance annuity was only a technical reimbursement of contributions and not an old age coverage. On the contrary, it considered that the old insurance annuity is part of old age coverage and that it is covered by the Directive. Since maternity leaves are remunerated, at least partly, by the employer through the payment of the supplementary maternity allowance, they must be considered as paid leaves covered by art 6 (1) (g) of the Directive.

The Federal Court of justice applied the answer that the ECJ gave to this prejudicial question. In its judgement, it clearly states that maternity leaves must be considered as affiliation periods. After referring to the ECJ case law, the Federal Court stated that the same benefits must be granted to all categories of members. However it did not give any indication about the duration of maternity leaves to be taken into account.

The decision of the Federal Court of Justice raises certain questions regarding transposition. It is necessary to determine the calculation method for maternity leaves but it is also necessary to decide if this provision will have a retrospective effect. Other questions are pending : does this case law apply only to the old insurance annuity or are there effects on other supplementary benefits in the past or in the future ? and finally a term of limitation will have to be settled.

In the light of all these questions, it is absolutely necessary that the social partners, responsible for the regulations governing the supplementary pensions, work on a centralised transposition. This is also necessary for the judgement of the Appeal Court of Karlsruhe presented above. It is a question of juridical reliability, and it would be desirable that all parts concerned, active members, social partners and pension institutions, could definitively solve the question of the “starting capitals” on the basis of a reliable legal decision.

Hagen Hügelschäffer
Original language : German

European News

« Developing a new EU Regulatory and Supervisory Framework for Insurance and Pension funds : The Role of CEIOPS »

Summary of the conference held in Frankfurt on 16 November 2005

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The subject of this conference of CEIOPS (Committee of European and Occupational Pensions Supervisors) was the development of a regulatory and supervision framework and the role of CEIOPS in this process. Jean Claude Trichet from the European Central Bank and Jochen Sanio from the German Federal Banking Supervisory Authority were amongst the most well-known speakers. Their presence highlighted the importance of CEIOPS at European level.

CEIOPS is the successor of the previous committee of insurance supervisory authorities. It has been set up by the European Commission to provide advice regarding insurance and pension funds regulations in the framework of the Lamfalussy organisation (phase 3). It is composed of high level representatives of insurance and pension fund supervisory authorities of the Members States.

Apart from advising the European Commission, CEIOPS also has to facilitate the transposition of European directives and is responsible for their homogeneous implementation in the various Member States, like for example the implementation of the Pensions fund Directive. Regular exchanges between members facilitate convergence and co-operation regarding supervision of pension funds involved in cross-border activities.

The conference debated about the needs for and the limits of an harmonised legislation for insurance financial control. Insurance companies and pension funds have a significant impact on financial policy. They come just after banks for investments in the EU and, as they invest in the long term, they have a stabilising influence. However, this requires an appropriate supervision, since economic strength can jeopardise financial stability. You will find hereinafter a summary of the various points of views. They reflect the different interests of the participants :

- **A European regulatory framework for insurance and financial services supervision is considered as necessary (Solvency II).** The aim would be not only a better supervision but also an harmonisation of market conditions in the European area.
- The German representatives stressed that a European legislation on financial supervision should not be too demanding. The various institutions should be able to capitalise according to risks, and should be allowed to manage risks adequately. Safety must be taken into consideration, but it should not hinder competitiveness at world scale. Consequently, transposition of EU legislation should not increase costs. Legislation must be efficient but realistic.
- Representatives from the European Institutions underlined the **need for an harmonised legislation and coherent transposition.** Presently the main points likely to be subject to regulation are being determined and clarified. A first proposal of directive should be issued during the first half of 2007. It will also be important to rapidly adopt a directive on portability.
- From the insurance companies' point of view, **European regulations should not hinder economic activity.** Supervision should leave a certain propensity to take a risk.
- The Commission answered that risks are not to be considered at market level. This is a purely technical matter whose assessment is accurate or not, but which does not depend on market conditions. To avoid economic bias, it will be **necessary to achieve a uniform evaluation of risks** that supervising authorities will have to refer to. However, strict standardisation would not be a solution since it would be an obstacle to flexibility and make difficult an adaptation to future evolution, and this is definitely not the objective to be achieved.
- The European Federation for Retirement Provisions advocated that it is still too early to introduce regulations in this field since the existing national regulations are too divergent. A legal approach could only be "of same nature, but different". As occupational pensions are involved in the social policy field, changes would have to be introduced step by step. It will **be necessary to take into account national particularities.** As far as insurance supervision is concerned, the content should be more clearly determined with the agreement of the organisations involved.

In its final speech, Jochen Sanio stressed the importance of CEIOPS in the preparation of a European legislation. Co-ordination through an institution such as CEIOPS is necessary, particularly because the interests of the various actors are so different. CEIOPS will be actively involved in the establishment of a qualified legislation, for the benefit of all parts and this will give more economic strength to Europe.

Wolf H. Thiel
Original language : German

EPB wishes you a happy New Year and informs you that, from now on, the Newsletter will be published in January, May and September

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