Input for a statement

Green Paper towards adequate, sustainable and safe European pension systems

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Working Document

EAPSPI
Pensions for the Public Sector

European Association of Public Sector Pension Institutions

Association européenne des institutions de retraite du secteur public

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Introductory remarks

The European Association of Public Sector Pension Institutions (EAPSPI) welcomes the present Green Paper that covers a large scale of pensions-related issues. This broad discussion within Europe is necessary to tackle the current and future problems, pensions are facing. EAPSPI is furthermore of the opinion that the joint preparation of this Green Paper by the three DG EMPL, Market and ECFIN under the chairmanship of the DG EMPL is a good approach since the issue of pensions nowadays covers a wide range of aspects to be taken into consideration and could therefore serve as model for similar national debates.

Before answering the questions of this consultation, EAPSPI would like to highlight the following key messages:

1. Pensions are basically different from other financial products. Pensions – particularly as far as public sector schemes are concerned – are characterized by the following main features:

   - Coverage of biometric risks, such as longevity, invalidity and survivors' risks providing a regular old-age income by means of a regular stream of payments.
   - Collective risk sharing with solidarity elements – often through collective agreements – instead of individual saving processes.
   - Access to large parts of the population frequently through mandatory participation by law or by collective agreements.

   Therefore, EAPSPI supports the idea in the Green Paper to create a label "pensions" that is restricted to products with predefined characteristics.[1] A clear definition is helpful for a common understanding of the notion "pensions" and to draw a clear distinction between pensions and other financial products not only in this Green Paper but also in any current and future legislative initiatives.

Basic differences between pensions and saving products require different solutions

2. The "de Larosière-report" of 25 February 2009, which made some 31 recommendations to strengthen and to reform the European supervisory framework, merely focused on other financial products and not on pensions, even if funded pension institutions were affected by the developments on the financial markets especially in 2008/2009. Pension reforms in the 90s reduced the replacement rate in every European country, in

Pension institutions did not cause the crisis

[1] 3.4.1 "Closing gaps in EU regulation" n° (4)

most cases shifting the insurance coverage towards the second pillar. However, the second pillar alone is not able to guarantee an adequate replacement rate. In fact, although both pay as you go and funded pension systems are vulnerable to demographic risks, funded systems are more affected by financial risk (as we saw in the latest economic crisis). In view of persisting market uncertainty, it seems prudent to maintain a strong first pillar, where possible. Improving the adequacy of the pension system and enhancing the coverage means also taking into account the situation of the labour market (discontinuous careers, temporary jobs and so on), which requires a special public effort for young generations, especially for women.

3. Member States and often social partners are responsible for the design of the pension schemes. This uncontested responsibility that is underlined in the Green Paper itself[2] leads to the diversity of pension plans in all Member States that should be acknowledged and respected in any further discussion. Additionally, pensions are only one part of the national welfare system and have developed over a long time. Against this background a uniform solution for all existing and future problems cannot be found; a fact that is also recognized in the Green Paper.[3]

Uncontested responsibility of Member States and of social partners

4. The challenges stemming from the demographic evolutions in all European countries require a new and innovative approach by the Commission that should be based on the Open Method of Coordination (OMC) especially by the exchange of best practice, the establishment and promotion of experts' forums and other similar measures.

Promotion of the OMC

[2] Introduction, p. 2: "Member States are responsible for pension provision: this Green Paper does not question Member States prerogative in pensions or the role of the social partners ..."

[3] See above, footnote n° 2

Question 1

How can the EU support Member States' efforts to strengthen the adequacy of pension systems? Should the EU seek to define better what an adequate retirement income might entail?

Analysis of the impact of existing legal framework prior to any new legislative initiative

EAPSPI wishes firstly to highlight that EU legislation in the field of pensions is quite recent. Apart from the Regulation 1408/71 of the early 1970s – respectively the prior Regulation N° 3 and 4 of 1958 – the EU only began to undertake legislative measures as from 1998 (Directive 98/49) and notably in 2003 with the IORP-Directive 2003/41/EC, which was transposed into all national legislative frameworks only in 2007. Therefore, EAPSPI is of the opinion that the EU legislator should wait until these measures, especially the IORP Directive have produced full impact in practice, at least at a mid-term horizon before undertaking any new legislative initiatives. A further argument against short-term legislative steps is the typically long-term horizon of pensions, sometimes several decades.

Promotion of the OMC to foster convergence

"Each Member State is different and the EU of 27 is more diverse than in was a decade ago." This general statement of the Commission in its Europe 2020 Strategy[4] also fully applies to the pension systems of the 27 countries that are nowadays characterized by a wide diversity. In order to deal with this diversity and hence with the various possible solutions for Member States and social partners to solve current and future problems, the Open Method of Coordination (OMC) should be fostered and also applied to supplementary pension schemes. EAPSPI believes that the best support for policy makers is a broad-based mutual information exchange of best practice. Hence possible solutions can found by analysing whether already implemented solutions can be adopted in other cases.

EU-wide definition of adequate retirement income would face the problem of the diversity of pension systems

EAPSPI would like to recall the diversity of pension design in the 27 Member States due to cultural and historical reasons that have entailed quite different concepts of pensions. In EAPSPI's point of view, this diversity should be acknowledged and respected in any further discussion. Usually, pension systems have developed over several decades. Some countries have opted for a generous pension system especially of the first pillar, whereas others have decided to introduce a basic first-pillar income with stronger supplementary pensions on a private basis. In practice this

[4] N° 2: "Smart, sustainable and inclusive growth" (p. 9)

diversity of concepts can be found in the Bismarck and the Beveridge models as well as in the different approach existing in many Central and Eastern European countries (CEEC).

Against this background, EAPSPI wonders whether an EU-definition of an adequate retirement income is possible. Indeed, living standards in the EU, sometimes also within one single country, are too different in order to come to a harmonised definition. Furthermore, the retirement income is only one (but certainly important) element of an adequate living standard after retirement. Further elements to be taken into consideration are the costs and the quality of medical services and care for the elderly, the tax burden of pensions and other monetary resources like support for rental, like in Sweden or heating in the UK. However, EAPSPI, would like to underline that only pensions can cover biometric risks, such as longevity, and hence achieve a life-long source of income.

An adequate old-age living standard consists of more elements than the retirement income

Question 2

Is the existing pension framework at EU-level sufficient to ensure sustainable public finances?

In EAPSPI's point of view, costs for pensions are only one part of public finances. Public finances is a much wider notion and covers other fields like tax revenues, trade balance, costs of education, unemployment, health care, defence and other expenditure. In its Europe 2020 strategy, the Commission also draws this distinction by recommending that *"fiscal consolidation and long-term financial sustainability should go hand in hand with important ... reforms, in particular of pensions ..."*.[5] With a particular view to pensions and financial sustainability, a distinction has to be drawn between national legislation and the framework at EU-level that is the subject of this question. As far as the EU framework is concerned, EAPSPI believes it is sufficient. Statutory pensions, which are exclusively designed by Member States, are covered by the Regulations 883/2004 and 987/2009 that only foresee the mutual recognition of the insurance periods. Hence this mechanism does not affect public expenditure since there is no transfer of money. Supplementary pension schemes are mostly covered by the IORP Directive and the future EIOPA framework or by the Life-Insurance Directives. All these rules foresee an adequate solvency margin. Therefore, public finances are not concerned either.

Pensions are only one element of public finances

EU legislative framework for pensions ascertains that public finances are basically not concerned

[5] Europe 2020 strategy, n° 4.3: "Pursuing smart budgetary consolidation for long-term growth"

Question 3

How can higher effective retirement ages best be achieved and how could increases in pensionable ages contribute? Should automatic adjustment mechanisms related to demographic changes be introduced in pension systems in order to balance the time spent in work and in retirement? What role could the EU level play in this regard?

EAPSPI is in line with the Commission that sustainability and adequacy are the core elements of any sound pension system irrespective of any pillar classification.[6] In EAPSPI's point of view, the retirement age, however, is only one element in this context.

Due to the diversity of pension systems and the particularities in individual Member States, EAPSPI is of the opinion that no uniform solution can be found at EU-level. Here again, the OMC and / or a panel of national experts with the support of the Commission seems to be the appropriate way to develop solutions to this often sensitive question.

Retirement age should remain in the core competence of Member States and social partners

EAPSPI is of the opinion that the notion of a "higher effective retirement age" should be separated from the often discussed "increase in pensionable ages". A higher effective retirement age can be achieved by various measures, e.g. the improvement of health care and better occupational health and safety. A further way to achieve higher effective retirement age is to offer flexible solutions (e.g. part time retirement) for elder workers and for those who exercise physically or psychologically arduous jobs. These exemplary measures might help that elder persons remain longer in work as targeted by the Europe 2020-strategy.[7]

Member States policies already offer solutions for increasing the effective retirement age

The other subquestion of an "increase in pensionable ages" should, however, be decided by the Member States and social partners possibly with the help of external experts. As already outlined in the introductory part to this answer, the differences within Europe impede any one-size-fits-all solution. Instead of a mere increase in pensionable ages, other solutions might also be conceivable. For example, the German and Swedish legislators have integrated a "sustainablity factor" in the calculation mode of their statutory pension schemes that will consider the relationship between contributors and future pensioners in later pension

Other solutions than a mere increase in pensionable ages are conceivable

[6] See n° 3 of the Green Paper: „Priorities for modernising pension policies in the EU"

[7] See n° 2: "Smart, sustainable and inclusive growth"

adjustments. Another way might be an automatic adjustment mechanism foreseen by the law. A further frequent solution in many countries is the so-called bonus-malus-systems with pension reductions before a predefined age and higher replacement rates beyond this threshold.

Regardless of the concrete measures, EAPSPI believes that a sound information policy, promoted by the Commission e.g. by means of the OMC, is necessary to inform citizens in good time about the necessity, the time horizon and the impact of any reform in this field. Good information will furthermore help to avoid unrealistic expectations regarding the later pension level. Broad-based financial education at a very early stage should therefore be one of the core elements of any reform measures in this area.

A sound information policy is essential in this area

Question 4

How can the implementation of the Europe 2020 strategy be used to promote longer employment, its benefits to business and to address age discrimination in the labour market?

EAPSPI is satisfied to see the upgrading of social aspects as one of the core elements of the Europe 2020 strategy besides economic and territorial cohesion. EAPSPI therefore supports that the idea of fostering the OMC and to strengthen the role of social partners in the field of social cohesion in general terms[8] will also be extended to the specific field of pensions.

Transformed OMC and stronger role of social partners also for pensions

[8] Boxes Flagship Initiatives „An Agenda for new skills and jobs“ and „European Platform against Poverty“

Question 5

In which way should the IORP Directive be amended to improve the conditions for cross-border activities?

For those members of EAPSPI, which are covered by the IORP Directive, they are of the opinion that the Directive should not be amended at present because of the following reasons:

1. Even if the IORP Directive should have been transposed into national legislation by 23 September 2005, the final implementation was only accomplished in 2007, i.e. about only three years ago. Therefore, the European legislator should wait until the IORP-Directive has produced its full impact in practice, at least at a mid-term horizon, before undertaking any new legislative initiatives.

Any amendment at the moment would come too soon

2. In particular, the annual published CEIOPS reports on market developments reveal that cross-border activities of IORPs are quite limited. The majority of cross-border services furthermore take place between the UK and Ireland. The recent analysis of 2010 shows a slow increase between 2009 and 2010 and even some IORPs having withdrawn their cross-border activities. Altogether, only 78 cases of cross-border cases are reported.[9] On the other hand, around 140 000 IORPs are registered in the 27 EU-Member States. Apart from the IORPs established by multinational companies, most of them have a limited business area, restricted to one or several companies or to an industry sector. These facts show that at least now, supplementary pension schemes covered by the IORP-Directive mostly constitute a national or even regional business.

CEIOPS-studies have shown only few cross-border activities of IORPs

Against this background, the Commission should undertake a thorough evaluation at a mid-term horizon on the basis of a more representative number of cross-border activities. Furthermore the Commission ought to wait until there are more cross-border cases between other countries. Any amendments should be based on a sound cost-benefit analysis.

With respect to the frequently discussed introduction of a 28th regime at EU-level, the members of EAPSPI concerned by this issue are of the opinion that this is not necessary. The provisions of the IORP Directive already foresee enough possibilities for cross-border services at present. This point of view is supported by

28th regime is not necessary because of provisions in the IORP-Directive

[9] CEIOPS report 56/10 of 24 June 2010: "2010 Report on Market Developments"

the recent Hewitt-study[10] about pensions for mobile researchers that also recommends using the tools of the IORP Directive.[11] Furthermore, it might be questionable whether such a new regime – outside the existing national frameworks – would be generally accepted in practice and therefore work in a cost-efficient manner. As shown above, only few IORPs are currently offering cross-border services in spite of the possibilities offered by the IORP Directive. Therefore, it is questionable whether the situation would change significantly with a 28th regime.

[10] See Footnote 27 of this Green Paper

[11] Hewitt: "Feasibility study for a EU Pension Fund for Researchers", Executive Summary, page 1

Question 6

What should be the scope of schemes covered by EU level action on removing obstacles for mobility?

EAPSPI is of the opinion that one way to remove obstacles for mobility is the promotion of transferability. In this context, clear definitions should be used. With a view to previous discussions about the first draft of the Portability Directive of 20 October 2005, the notion of "portability" should therefore be avoided since according to the Commission's understanding, it goes further than mere transferability.[12] EAPSPI therefore welcomes that the Commission has now given a clear definition of "transferability" in the Glossary to this Green Paper.

Promotion of transferability of supplementary pensions as the best way to remove mobility obstacles

With a view to future EU actions on removing obstacles for mobility, these should therefore be limited to the promotion of transferability. The creation of uniform minimum standards at EU-level on acquisition and preservation of dormant pension rights, however, are not an adequate means to promote mobility.[13] EU-actions should furthermore be restricted to supplementary pensions. Statutory pension schemes are already governed by the Regulations 883/2004 and 987/2009 that foresee a well-established framework that already have achieved social protection of mobile workers over many decades.

EAPSPI is furthermore in line with the Commission that one of the main obstacles for mobility are the different taxation rules governing supplementary pension schemes.[14]

Further obstacles are different taxation rules

Against this background, transferability both at national and at EU-level of supplementary pensions could be promoted under the following conditions:

A sound transferability process requires …

1. Only funded supplementary pension schemes should be included into the discussion about improved transferability. Unfunded or partially funded schemes should remain outside to avoid causing financial problems.

… a restriction to funded schemes

[12] See Article 3 (g) of the draft Portability Directive of 20 October 2005 – COM(2005) 507 final

[13] See answers below to question 7 of this Green Paper

[14] Page 12/13 of this Green Paper

2. Only the cash equivalent transfer value (CETV) can be transferred. Pension rights cannot be transferred because of the large differences in the pension plans. Otherwise, the new pensions plan would be obliged to cover also the risks of the former pension plan which would not work in practice.

… the mere transfer of the CETV

3. The CETV has to be calculated according to the rules of the former and later transferred into pension claims according to the rules of the new scheme. This procedure avoids important financial losses of any pension institution that takes part in this transferability process. The CETV should be transferred to the new scheme preferably immediately to avoid any financial disadvantages or the latest at the moment of the payout phase.

… the calculation of the CETV according to a predefined modus

4. Any transfer to a new scheme should entail that the former scheme is no longer liable for the pension payment. Therefore, only complete transfers should be permitted.

5. Any transferability rules require sound and easily understandable information for the mobile worker. Transferability – as described above – is not always favourable for the mobile worker and could even entail a loss of accrued pension rights depending on the design of the accepting scheme (which risks are covered?), on the role of supplementary pension schemes in the respective country in the case of cross-border transfers or on actuarial assumptions that might also differ from one to another pension scheme.[15]

Sound information for the mobile workers are inevitable

6. Against this background, there should not be any legal obligation to exercise transferability at present. Furthermore, already existing national transferability rules will have to be taken into consideration. There should be a gradual approach like in the Netherlands, the UK or in Germany, where transferability has been developed step by step between comparable schemes. In Germany, for example, transferability is possible between the 25 public sector pension schemes already since the 1970s with some 10,000 or even more transfers a year. Later, the German legislator decided to introduce a legal framework for transferability with effect from 1 January 2005.

No legal obligation at the moment but step-by-step development

[15] EAPSPI's Portability report 2007; downloadable from www.eapspi.eu / News / Threat or an Instrument to Promote Mobility? Common Conference of EAPSPI and AEIP on 18 April 2007 / Portability report

With respect to these arguments EAPSPI suggests the following twofold approach to promote transferability of supplementary pension rights:

1. The Commission should use the OMC to foster transferability at national level.
2. At EU-level, the Commission should firstly issue a non-binding act (e.g. a Recommendation) that covers cross-border transfers between comparable schemes.

Alternatives to a pan-European pension fund

EAPSPI would finally like to use this opportunity to provide fresh impetus for a solution for mobile workers. Recently, Hewitt was commissioned to produce a feasibly study for a pan-European pension fund for researchers[16] who usually have many short-term employments in several countries especially at the beginning of their career.

EAPSPI is aware to the difficult situation of young researchers to build up pension rights at the beginning of their career. EAPSPI therefore invites the Commission to consider the following alternatives to a pan-European pension fund:

The promotion of transferability

- First the problem of mobile researchers could be solved by promoting the transferability of supplementary pension rights as outlined above.

Otherwise, the mutual recognition of insurance periods

- If the transferability is not feasible e.g. since one of the involved schemes is unfunded or underfunded, the problem could be solved by a mutual recognition of insurance periods in order to avoid a loss of pension rights since the mobile worker has not fulfilled the vesting or waiting period. Such a system, which is similar to the mechanism in the Regulations 883/2004 and 987/2009, is currently applied in some transfer circles of the supplementary pension schemes of the public sector in Germany with more than 5 million insured persons.
- The advantage of this solution is that it would involve no – or at least merely low – supplementary costs since no new pension scheme would have to be established. Furthermore, this solution would build on already existing schemes that are used to manage the pensions of mobile workers.

Tracking service for mobile workers

Besides the promotion of transferability, EAPSPI advocates building up a tracking service as described below in its statement

[16] Footnote 28 of this Green Paper

to question n° 7. The practical experience of EAPSPI's members, public sector pension institutions, shows that one of the major concerns of mobile workers is to follow up their pension claims after several job changes.

Question 7

Should the EU look again at the issue of transfers or would minimum standards on acquisition and preservation plus a tracking service for all types of pension rights be a better solution?

Whereas EAPSPI supports the idea of improving the conditions for transferability of supplementary pension rights, it has the following concerns about introducing minimum standards on acquisition and preservation of dormant pension rights (1.). The tracking service at EU-level, however, could be a good solution especially for mobile workers as mentioned under n° 3.2.2 of the Green Paper (2.).

1. Acquisition and preservation of dormant pension rights

In EAPSPI's point of view, any EU-standards in this field are opposed to the following arguments:

Minimum standards might be not be the adequate solution since

- Due to the large variety of supplementary pension schemes in the EU and their different importance in the context of the national pension systems, a creation of standards seems to encounter a large scale of problems.

… pension schemes are too different

- Any harmonisation could lead to an increase in costs and consequently to the danger of closing down already existing pension schemes and in particular DB-schemes. Model calculations prior to the draft Portability Directive of October 2005 revealed an increase of costs up to 35%.[17] EAPSPI hereby would like to point out that, notably in the UK, former generous DB-schemes have been closed during recent years due to increasing legislative requirements and replaced by DC-schemes with a lower benefit level.[18]

… they might generate an increase in costs and thus threatening existing schemes

- The Commission has acknowledged in the introduction to this Green Paper that *"Member States and social partners are responsible for pension provision"* and that the Green Paper *"does not suggest that there is one 'ideal'* one-size-fits-all *pension system design."* The Commission thus accepts the differences also of supplementary pension schemes. EAPSPI therefore wonders why the Commission intends to foster harmonisation in this field in spite of this clear position.

… the Commission has acknowledged the differences of pension schemes

[17] EAPSPI's position paper of February 2006 on the proposal for the "Portability directive, p. 5, footnote 18; downloadable from www.eapspi.eu / News

[18] "Quelling the Pensions Storm – Lessons from the past" Study of the UK think tank Policy Exchange; downloadable from www.policyexchange.org.uk

- Supplementary pension schemes are – according to their designation – supplementary to statutory pension schemes. Those are covered by the Regulations 883/2004 and 987/2009 that explicitly foresee only coordination. Due to this close connection to statutory pension schemes, supplementary schemes should therefore be treated the same way; especially against the background that the Green Paper recognizes the prior competence of Member States. Any EU-initiative therefore should foster coordination instead of trying to achieve harmonisation.

Same treatment at EU-level as first-pillar schemes: coordination instead of harmonisation

- EAPSPI wonders if harmonized rules as to minimum standards on acquisition and preservation of dormant pension rights are always in line with the principle of subsidiarity. Since 140,000 pension schemes are already established in Europe at company level or by collective agreements, a new EU-initiative must be in line with Art. 5 § 3 of the TEU. Due to the expected rise in costs, the compatibility with Art. 5 of Protocol 2 of the TEU / TFEU has to be assessed.

Reconcilability with the principle of Subsidiarity?

2. Tracking service

EAPSPI supports the idea that the active population has to be informed about the level of their accrued pension rights especially in order to assess whether any supplementary efforts are necessary to obtain an adequate pension level. EAPSPI, however, would like to emphasise that any tracking service has to consider the question of legal liability of the pension provider in case of incorrect information. This question arises especially in the case of projected pension levels, if the projected pension level does not correspond to the later attributed pension. One solution could be a restriction to information only on the current situation. EAPSPI is furthermore of the opinion that once transferability is more widespread, a tracking service will be of less importance.

Tracking service is necessary for informed choice

At the moment, EAPSPI, however, is not sure whether such a tracking service can already now be established for all types of pension rights at EU-level, as suggested in the Green Paper. In any case, an EU-wide tracking service should not lead to the establishment of a new EU-authority that collects data from all EU-citizens. EAPSPI believes that an efficient tracking service can better be established by using the already existing and future developing national-level structures.

No EU-wide tracking-service at present

Therefore, EAPSPI advocates a step-by-step approach that firstly foresees the promotion of a tracking system at national levels. EAPSPI would like to point out that even some Member States currently face problems in introducing such a service at national level. The Commission could assist Member States by offering a common internet platform with links to other European pension systems. At a later step, it could be developed similar to the Swedish system www.minpension.se that already foresees such a service for all kinds of pension rights acquired within Sweden. An alternative approach could be that every Member State designates one national authority as liaison office that would be competent for identifying the relevant pension institution in its country on request.

Promotion of the national tracking services by creating a EU-wide network at the same time.

Question 8

Does current EU-legislation need reviewing to ensure a consistent regulation and supervision of funded (i.e. backed by a fund of assets) pension scheme and products? If so, which elements?

In EAPSPI's point of view, any response to this question first requires a clear distinction between pensions and saving products. Pensions are characterized by the following main features:

Basic differences between pensions and saving products

- Coverage of biometric risks, such as longevity, invalidity and survivors' risks providing a regular old-age income by means of a regular stream of payments.
- Collective risk sharing with solidarity elements – often through collective agreements – instead of individual saving processes.
- Access to large parts of the population frequently through mandatory participation by law or by collective agreements.

Therefore, EAPSPI supports the idea in the Green Paper to create a label "pensions" that is restricted to products with predefined characteristics.[19] A clear definition is helpful for a common understanding of the notion "pensions" and to draw a clear distinction between pensions and other financial products not only in this Green Paper but also in any current and future legislative initiatives.

Creation of a label "pensions"

Currently, there is mainly the IORP Directive as existing legal framework ruling the regulation and supervision of funded pension schemes. Referring to the statement to question n° 5, EAPSPI does not see any need to modify this Directive at present.

No modification of the IORP-Directive at present

Furthermore, a recent compromise has been reached on 22 September 2010 to establish a new supervisory framework for the financial sector. There will be a new EU authority EIOPA that will be competent for supplementary pension schemes as from 1 January 2011. EAPSPI therefore advocates waiting until this new authority has started its work to see how this new structure will work in practice.

New supervisory architecture should first start to take up its activities

[19] 3.4.1 „Closing gaps in EU regulation n° (4)

Question 9

How could European regulation or a code of best practice help Member States achieve a better balance between savers and providers between risks, security and affordability?

EAPSPI believes that these goals would better be achieved by a code of best practice instead of EU-regulations. A code of best practice is preferable because it offers more flexibility for Member States and social partners to adopt their pension plans according to the concrete situation they are faced with. Such an approach is preferable since the situation is quite different within every Member State[20]; thus requiring a differentiated instead of a one-size-fits-all solution.

A code of good practice is preferable to EU-regulation

With respect to the question, how to achieve the balance between savers and providers between risks, security and affordability, EAPSPI would like to submit the following suggestions on the basis of the practise of its members, the European public sector pension schemes:

Achieving a balance through ….

1. A balance between savers and providers could be established by promoting the role of social partners in designing pension plans. Hence, a balance between the employers' and the employees' interests is already achieved at the very early stage. In the public sector, such supplementary schemes have been established sometimes many decades ago e.g. in Scandinavian countries, in the Netherlands or in Germany. Being based on the collective agreements, such schemes cover large parts of the population and thus help to promote the overall introduction of supplementary pensions with very low costs.

   … the promotion of the role of social partners

   EAPSPI therefore welcomes the fact that the TFEU has enhanced the role of the Social Dialogue and therefore hopes that the Commission will undertake further measures to strengthen the role of social partners in the field of pensions. This notably concerns conflicts between the fundamental right of social partners to negotiate conditions of workplace pensions through collective agreements and the fundamental freedoms of the EU-Treaty, such as the freedom of competition.[21]

[20] See Europe 2020 strategy, n° 2: "Smart, sustainable and inclusive growth"

[21] Most recently: Infringement procedure C-271/08 (Commission vs. Germany because of a collective agreement about supplementary pensions)

2. Following the idea of strengthening the role of social partners, such a balance between savers and providers could be attained by promoting consumers' representation in the supervisory entities of the pension funds. Such a representation – often on a paritarian basis – is quite frequent in public sector pension schemes in the above-mentioned countries (i.e. in Scandinavian countries, the Netherlands and Germany). Consumer representation helps to ensure that the interests of all concerned parties are properly taken into consideration in the management of the pension institution.

… a representation of consumers in the supervisory entities of the IORPs

3. Public sector pension schemes have achieved a balance between risks, security and affordability by introducing sound risk management systems as for example in the public sector IORPs in the above-mentioned countries, but also in Austria, Spain and other countries. Such a security mechanism and a prudent investment policy have helped for example some German pension schemes to overcome the 2008/2009 crisis even with a positive return.[22]

… the introduction of sound risk-management

4. The Commission has furthermore suggested establishing a collective risk-sharing mechanism by means of a hybrid scheme consisting of DB and DC-elements. EAPSPI would like to underline that such a combination already exists in public sector pension schemes in Germany since the last reform of the social partners in 2001 and in Sweden since 1986. With a view to the increasing importance of DC-schemes in Europe, EAPSPI, however, is of the opinion that the Green Paper only describes the current situation and short term evolution.[23] Because of the demographic evolution and the lack of qualified workforce at mid- and long-term horizon, attractive workplace pensions are expected to become more and more important.

… risk-sharing mechanism by means of a hybrid scheme consisting of DB and DC-elements

[22] According to the statistics of the German Supervisory Authority BaFin, the 10 largest German *Pensionskassen* achieved an average interest rate of 4,17% in 2008

[23] Page 13/14

Question 10

What should an equivalent solvency regime for pension funds look like?

One of the most important questions in this consultation

With a view to the discussion of the last years whether to extend the scope of the Solvency II regime to IORPs, the public consultation of the Commission of 3 September 2008 about the harmonisation of solvency rules applicable to schemes covered by Article 17 of the IORP Directive and IORPs offering cross-border services and the public hearing on 27 May 2009, EAPSPI is of the opinion that this question is of paramount importance. Against this background, EAPSPI will again put forward its arguments of its position papers on the issue of the application of Solvency II rules for institutions for occupational retirement provision and of its answers to the above-mentioned consultation paper.[24]

Specific nature of IORPs has to be taken into account

It is also interesting to note that a recent study by the OECD[25] underlines the potential difficulty of a common approach to solvency: "*International standardization of funding regulations is unlikely and that in any case it would risk being ill-fitting across jurisdictions. However, some convergence of over-arching funding principles to promote counter-cyclical features […] could strengthen DB systems. This could be complemented by general international best-practices and guidelines on how to determine minimum funding contributions and assets and liabilities […].*"

The discussion about an equivalent solvency regime for pension funds has to start from a description of the **specific nature** of IORPs:

Great efficiency and therefore low internal costs

1. IORPs are characterized by great efficiency and therefore, by low internal costs, in particular due to the fact that almost all the employees in a given sector are covered. This efficiency was highlighted by the Social Protection Committee (SPC) of the Commission in 2008.[26] A Dutch survey conducted in 2007 confirms this observation.[27] For example, in the Netherlands, the annual management costs of occupational pension institutions drop

[24] Both documents are downloadable from www.eapspi.eu / News

[25] (Yermo, J. and C. Severinson (2010), "The Impact of the Financial Crisis on Defined Benefit Plans and the Need for Counter-Cyclical Funding Regulations", OECD Working Papers on Finance, Insurance and Private Pensions, No. 3, OECD Publishing

[26] "Privately managed funded pension provisions and their contribution to adequate and sustainable pensions"

[27] Steenbeek/van der Lecq: "Costs and Benefits of Collective Pension Systems"

disproportionately to the increase in the number of members. If the internal cost per year and per member is 156 Euros for 1,000 to 10,000 members, it drops to 86 Euros for 10,000 to 100,000 members. For large groups of up to 1,000,000 members, the cost even drops to only 28 Euros a year.

It is also very interesting to compare the management costs of occupational pension institutions in the Netherlands with those of life insurance companies. The table below on the ratio between management costs and contributions, based on total capital investment volumes, shows that second-pillar occupational pension institutions achieve lower costs in all cases.

Ratio between management costs and contributions of life insurance companies and of occupational pension institutions in the Netherlands, based on capital investment volumes[28]

Total amount of capital invested	Life insurance companies	Occupational pension institutions
10 - 100 Million €	36.1 %	7.8 %
100 – 1,000 Million €	17.2 %	5.0 %
1,000 – 10,000 Million €	13.2 %	3.9 %

2. Solidarity is often a further core element of pension schemes. Contributions are mostly calculated without considering the age, gender and specific professional risks. A further element of solidarity is the compulsory participation that prevents participants from leaving the scheme as is the case for individual solutions. A medical examination furthermore is not foreseen. And finally, pension schemes frequently contain “solidarity elements” whereby pension rights are acquired even during periods with no contributions, such as times of sickness, maternity leave etc.

Solidarity as a further core element

[28] Steenbeek/van der Lecq, “Costs and Benefits of Collective Pension Systems”, page 64

3. Pension schemes are social institutions since they are deemed to provide supplementary old-age income additionally to the pensions out of the general state-run schemes. Against this background, pension schemes are often exempted from Corporate Income Tax, as for example in Germany[29] or in the Netherlands. These tax advantages are transferred to participants and pensioners by means of higher pensions; similar to capital gains that are also attributed to beneficiaries.

Social mission of IORPs

4. As outlined before, pension schemes provide a better coverage especially through collective agreements than individual solutions. Therefore pension schemes cover parts of the population that otherwise would not benefit from any supplementary pensions.

High level of coverage

5. There are various financing methods for pension schemes. The basic distinction is between PAYG schemes, which are quite frequent in the public sector, and funded schemes. But also within the group of funded pension plans, there are sometimes important differences, as for example the so-called "hybrid schemes" that contain DB and DC elements. Therefore, a uniform solvency regime for all kinds of pension schemes seems to be hardly feasible.

Different financing methods of IORPs

Besides these general features, there are further specific inbuilt **security mechanisms** that ensures the solvency position of pension schemes:

Further inbuilt security mechanisms of IORPs

1. In some pension schemes contributions and the main benefit parameters can be modified by the employers and the employees' representatives. This has been done, for example, in the German public sector where the social partners agreed on a fundamental pension reform in 2001 in order to ensure the sustainability of this supplementary pension scheme.[30]

Flexible parameters in pension plans

2. Pension schemes have a governance structure that frequently involves social partners in the Board of Directors or similar internal supervisory bodies. Due to this often paritarian representation, the solvency margins can be assessed at all times in the best interest especially of participants and pensioners.

Involvement of employers and employees in governance

[29] § 5 (1) Nr. 3 of the Corporate Tax Act (Körperschaftsteuergesetz – KStG)

[30] For further details: see EAPSPI's information letter EPB n° 12 of April 2002; downloadable from www.eapspi.eu / EPB / Archives

3. Pension schemes have a long term investment horizon of approximately 25 years since they uniquely administrate pensions. Therefore, long-term developments are more important than short term evolutions that have to be considered by other companies submitted under the Solvency II regime.

Long-term investment horizon of IORPs

4. For DB- and hybrid DB-/DC-schemes, in at least some Member States,[31] employers have the ultimate responsibility for the fulfilment of the pension promise.

In view of these considerations, any equivalent solvency regime for pension funds first requires a fact-finding exercise about the European landscape of supplementary pension funds. Furthermore, the specific nature of pension schemes – as described above has to be taken into consideration. Furthermore, the Commission should bear in mind that if it wants to promote supplementary pensions to compensate the reductions in the statutory pension schemes excessive solvency margins might be counterproductive for a further promotion of supplementary funded pension schemes.

Considerations about an alternative solvency approach for IORPs

In EAPSPI's point of view, any discussion about equivalent solvency regime for pension funds should start from a principle-based approach. The role of the Community legislator should therefore be limited to define only some principles that are later defined by the national legislators or social partners in order to respect the differences of the Member States, the different importance of the pillars or branches in their pension systems and further specific features. A complete harmonisation at EU-level could – and should therefore not be reached.

Basic principles by the Commission to be completed by Member States

In this context, EAPSPI refers to the findings of the European Actuarial Consultative Group in its report of May 2010,[32] in which it has established a set of principles that can be outlined as follows:

Principles developed by the European Actuarial Consultative Group in its report of May 2010

- There should be an adequate balance between a high degree of security and affordable costs to the sponsor in the context of sustainable pension systems as decided by Member Sates.

[31] In Germany: § 1 (1) 3 of the Occupational Pension Act (Betriebsrentengesetz – BetrAVG); similar rule in Sweden

[32] Security in occupational pensions – Appendix B: Best practise principles for pension supervisory process; downloadable from http://www.gcactuaries.org/documents/IORPSecurity_full_May2010.pdf

- Any risk-assessment should take account of the inherent risks, not just at particular points in time but also on a forward-looking basis, therefore considering expected long-term developments.
- Full transparency is necessary to all stakeholders about how the financial position has been determined, including how the various risks are managed and their potential rewards and consequences.
- Any new solvency regime should respect of the principle of Proportionality according to which any rules should consider the complexity of the pension product and the size of the IORP.
- Supervisory authorities should be committed to a flexible practice in order to be able to react to changing conditions.
- Solvency rules should also stimulate an anti-cyclical investment policy with incentives for pension schemes to improve security buffers during favorable economic and business conditions so that they may provide protection in less favorable conditions.
- Solvency rules should be practical to implement and administer.

Question 11

Should the protection provided by EU legislation in the case of insolvency of pension sponsoring employers be enhanced and if so how?

EAPSPI supports the idea of an insolvency protection because of the increasing importance of supplementary pensions. In this context, EAPSPI, however, would like to recall the results of the CEIOPS study of 15 June 2009[33] that disclosed that only very few Member States already have introduced pension guarantee schemes (PGS) at national level. EAPSPI supports the findings of this CEIOPS-report that harmonized rules for PGS at EU level would come too soon because of the following reasons:

Insolvency protection is necessary, but any EU-harmonisation at current level would come too soon at present

1. The diversity of the different pension plans (DB and DC schemes) as well as the different prudential rules and protection mechanisms of social and labour law.

Diversity of pension plans

2. The still marginal implementation of PGS in the single Member States implies that an overall implementation at national level is preferable to any implementation of harmonized rules at EU level at present.

Still marginal implementation of PGS

3. Any introduction of harmonized PGS-rules will have to be assessed against the other protection mechanisms of the supervisory and the social and labour law at national level.

Prior assessment of other security tools

4. The additional costs of an insolvency protection, which might result in a reduced average pension benefit level.

Additional costs

5. Public sector pension schemes face a different situation to that of private IORPs since their sponsors, public employers, mostly cannot become insolvent.

Other situation of public sector IORPs

Against this background, EAPSPI, welcomes any initiative of the Commission to foster the insolvency protection at national level, e.g. by means of the OMC after having additionally analysed the study of 2009 about DB and book reserves schemes that is mentioned in footnote 35 of this Green Paper.

[33] Note on Member States' responses to the questionnaire of Pension Guarantee Schemes

Question 12

Is there a case for modernizing the current minimum information disclosure requirements for pension products (e.g. in terms of comparability, standardisation and clarity)?

EAPSPI is of the opinion that reliable and easily understandable information is crucial to enable everyone to take the right decision as to additional pension savings. A current problem in this context is the diversity of "pension" products, which might lead sometimes to very complex descriptions and hence even entail a disorientation of the individuals. Therefore, EAPSPI supports that financial literacy, especially for younger persons, should to be improved in order to raise awareness of pension issues at a rather early stage. However, any financial education will reach its limits and it is impossible to achieve a high level of financial knowledge throughout the whole population.

Sound information is necessary but should also be extended to the statutory pension schemes

Financial education will have to be fostered – but it will reach its limits

Such information requirements, however, should not be limited to additional "pension products", i.e. on a private basis but should also be extended to statutory pension schemes. Since these are the basis for any old-age income, reliable information of these basic schemes is inevitable to assess whether there will be any gap to be filled by supplementary pensions.

Public sector pension institutions recently have undertaken many efforts to promote the information services for the employers and to employees. Therefore, EAPSPI does not see any case (in terms of needs) for modernizing the current minimum information disclosure requirement as mentioned in this question.

Public sector pension schemes have improved their information policies

Question 13

Should the EU develop a common approach for default options about participation and investment choice?

Where workers have a choice of joining a pension scheme, recent work on automatic enrolment with a possibility for opting-out on the part of the employee would seem to allow commonly observed inertia on the part of workers to generate positive outcomes, instead of putting off the decision to join until too late. However, a common European approach on this issue, which is by no means universal in Europe, would not seem to add value.

Furthermore, where workers are faced with investment choices when they join a scheme, it is of course essential that they should be able to rely on a default fund that is designed and managed in their interest. The work of various international organisations and experts[34] is interesting and could become part of an exchange of best practice, perhaps in the context of the enhanced OMC.

[34] in particular the OECD: See for example "Assessing default investment strategies in defined contribution pension plans" Pablo Antolin, Stéphanie Payet, and Juan Yermo, June 2010

Question 14

Should the coordination framework at EU level be strengthened? If so, which elements need strengthening in order to improve the design and implementation of pension policy through an integrated approach? Would the creation of a platform for monitoring all aspects of pension policy in an integrated manner be part of the way forward?

EAPSPI supports the coordination framework by fostering the OMC. To EAPSPI's point of view, this method fits especially well for the pension's sector since its offers a common working procedure for the EU and the Member States on the one hand and leaves enough leeway for Member States and social partners for the concrete pension design on the other hand.

Promotion of the OMC

With respect to a platform for monitoring all aspects of future pension policy, EAPSPI suggests a further development of the Pensions Forum of the Commission. It has already existed for more than 10 years and has therefore established a working procedure to discuss all possible issues arising from pensions. The Pensions Forum consists not only of representatives from the Member States but also from stakeholder organisations; thus assuring a well balanced representation of all institutions working on pensions. Therefore, the Commission has got the advantage to have already such a platform that could be further developed as outlined in this question.

Further development of the Commission's Pensions Forum

EAPSPI
Pensions for the Public Sector

About EAPSPI

The European Association of Public Sector Pension Institutions (EAPSPI) is a group of 24 public sector pension schemes out of 16 European countries. The members and observers are institutions from the following countries: Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Germany, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland and United Kingdom. These institutions cover the special basic schemes for civil servants or the supplementary schemes for public employees. They are responsible for more than 28 million active members in the public sector and pensioners.

The main purpose of EAPSPI is to enable their members to improve the reciprocal knowledge of their institutions and that of the social organisation of their respective countries. Furthermore, the association intends to take part in the construction of a social Europe and, in this context, to study the consequences of the opening up of Europe, particularly regarding free movement. In this context, EAPSPI analyses ways and means of improving services offered to their clients (pensioners, active members or employers). To achieve this purpose, the association mainly intends to promote exchanges of expertise and information, involving also the area of products and services linked to retirement and to position itself as a pension expert, in order to develop relations and interact with European institutions and other international organisations.

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