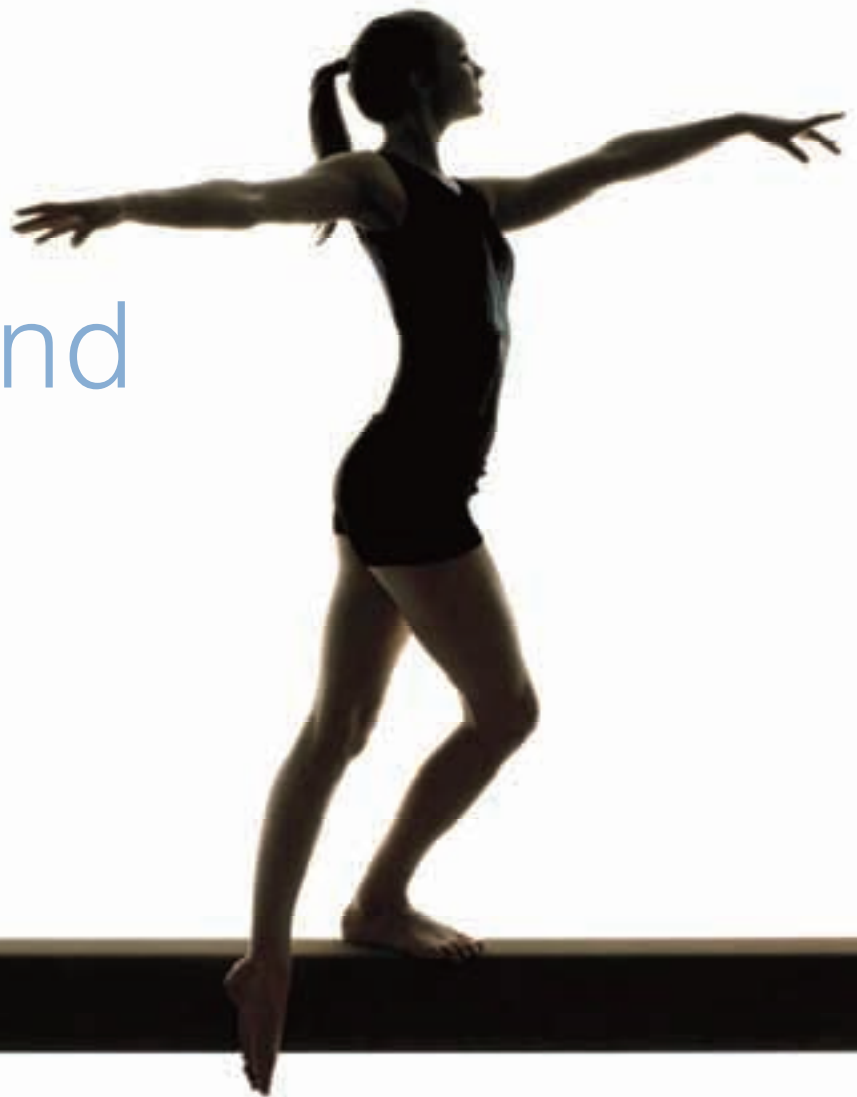


Report

# Mobility and Pensions

Part 1





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Mobility and Pensions –  
Part 1: Actual status of Portability within EAPSPI

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## INTRODUCTION – THE QUESTION OF MOBILITY AND PENSIONS



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# INTRODUCTION

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There can be no doubt: The freedom to work in any European country is one of the fundamental freedoms of European citizens. Admittedly professional mobility is not yet a mass-phenomenon in Europe. But in light of demographic change and of globalisation, increasing mobility will be essential in the European market if the European Union (EU) intends to remain a key player in international competition.

Supplementary pensions form, too, a key element of sustainable pension systems. As providers of supplementary pensions for the public sector, EAPSPI's members are in particular concerned with issues in this field. Hence, mobility is an issue in public pension schemes. Furthermore, EAPSPI's members feel responsible towards the members of their schemes and their wish to exercise free movement. These reflections have already brought EAPSPI to deal with this topic. The observations and results can be found in EAPSPI's „Portability Report“ (second edition) from 2007.

And Mobility was once again set as topic on the agenda in the Green Paper of the Commission „Towards adequate, sustainable and safe European Pension systems“. Thus EAPSPI, together with its members, an expert in the field of public pensions, felt the need to have one more closer look on the topic. This report intends to give an overview of the practical side of mobility in some European Union's Member States where institutions of EAPSPI are located – the practice of Mobility concerning some of EAPSPI's members. In addition, it identifies the main obstacles of practicing Portability and gives a hint on how

portability and mobility can be fostered. Thus, we hope to give an input in the still ongoing debate how free movement for Europe's workforce can be realized in the field of supplementary pensions.

## **Mobility and Pensions – why they are linked**

Pensions basically are fixed, ruled and - with regard to the statutory pensions - paid by the Member States. Each member of the European Union has its own pension landscape, consisting of different pillars, tiers and levels which result from the history, economic conditions and other circumstances of the individual member states. Occupational pension schemes are often rare in countries with high statutory pensions. This holds particularly true for the southern European countries. The situation is quite different in countries whose first pillar consists of a basic pension, which has been traditionally augmented by occupational pension systems such as those in the Netherlands. Employees who are very mobile have to deal with several pension schemes from different countries and providers during their worklife and retirement. The question is how to ensure that this is not an obstacle to following their personal career path.

## **Coordination of occupational pensions and other approaches**

The efforts to ensure and improve the portability of employee pension claims have been on the agenda of the European Commission for many years. The claims of the first pillar of pension

schemes have been controlled for decades by regulation (EC) 1408/71 – nowadays regulation (EC) 883/2004 -, which ensures that periods of employment in several member states do not generate any losses. There is no equivalent regulation in place for supplementary pensions. Occupational pension schemes are linked to employment and in several countries in the EU there is no mandatory provision but it is up to the employers or the social partners whether additional pension provision is offered. Some pension schemes require qualifying periods to be fulfilled because there is an aspect of loyalty towards the companies which is connected to occupational pension provision. Nevertheless the more occupational pensions become an indispensable part of old-age pensions for European citizens, the more the existing occupational pension rights or schemes could make an obstacle to professional mobility.

Indeed the issue of pensions and international professional mobility still only concerns a small sector of the workforce. However, mobility is an important aspect of employment policy. For this reason, the EC has never lost sight of the subject. Even though it has not yet come to the adoption of a European Portability directive, the latest developments show that it is still considered an essential topic. There are different ways in which the goal of mobility can be realised. The possible solutions mooted since 2001 had different approaches which range from the establishment of Pan-European pension funds (particularly suitable to large corporations), encouraging transferability of existing pension entitlements or their cash equivalent values, shortening waiting

and vesting periods, coordination or the establishment of a tracking service system.

The most discussed approach to keep pensions as flexible as the mobile workers is portability. A common metaphor to explain portability is a suitcase in which an employee leaving the company can bring the accrued pension claims with her / him to the next provider. Portability in this sense means the transferability of pension claims or capital values of the eligibilities. For several years EU Member States tried to agree on portability of pension rights within the framework of a directive on occupational pensions. In October 2005, the European Commission presented the proposal of a directive to improve the portability of supplementary pension claims (Com (2005) 507 final). The declared aim of this proposal was the abolishment of obstacles in the conditions for acquiring supplementary pension claims, the preservation of dormant pension claims and the mandatory transfer of claims between the occupational pension providers if certain requirements have been fulfilled. This draft directive was subsequently the subject of controversial discussions and it was not possible to achieve the Member States' agreement.

In contrast to that version a new draft Directive had been proposed which did not contain any provisions for the transfer of entitlements as the Commission followed the European Parliaments suggestion of June 2007 in which it pronounced a removal of the provision of transferability. The background was that the introduction of a mandatory transfer would be a strain on some of the supplementary pension schemes and that it would have lead to considerable technical



difficulties. The new proposal of the Commission was therefore limited to provisions relating to the purchase of claims and the preservation of dormant pension claims, but because of the reluctance of the Netherlands and later also of Germany and Luxembourg, it was not adopted.

In its Green Paper „Towards adequate, sustainable and safe European pension systems“<sup>1</sup> of July 2010 the European Commission put the issue of mobility back on the agenda again and asked specifically what kind of possible solutions should be pursued. The majority of the responses did not favour transfers as a good option. Many answers strictly opposed them considering the transferability of cash equivalent values to be too difficult and expensive to carry out.<sup>2</sup> Instead most of the responses supported the approach of setting minimum standards concerning the acquisition and preservation of pension rights. Although the European Parliament, in its statement on the Green Paper, stressed that transferability of capital values ought to be permitted into other pension funds, it also stated that the focus of the Commission’s activities should be on the development of minimum standards for the acquisition and preservation of pension rights.<sup>3</sup>

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<sup>1</sup> Green Paper - towards adequate, sustainable and safe European pension systems, European Commission, Brussels 7.7.2010, COM (2010)365 final.

<sup>2</sup> Summary of Consultation Responses to the Green Paper „Towards adequate, sustainable and safe European Pension systems“, 7.3.2011

<sup>3</sup> European Parliament resolution of 16.02.2011 on the Green Paper on Pensions (2010/2239/INI), N° 38

Therefore it was not surprising that in the recently submitted White Paper the Commission<sup>4</sup> does not propose portability as a definite goal but favours other approaches especially the standardisation solution. Having in mind the diversity of the member states’ pension landscapes as previously described there are doubts whether it would be difficult to standardise these systems without jeopardizing the existence of occupational pension schemes, which are financed by employers.

### **Maintaining the diversity of pensions**

Pensions are as diverse as the Member States themselves. This diversity is a fact and the responsibility to design the national regulatory (social, civil and fiscal) framework will remain in the hands of the Member States. Besides, there are huge differences in the way of financing pension rights. The common goal of the commission and the Member States is to keep future pensions sustainable and safe. One aspect of diversity of „private pensions“ is the principle of distributing pension claims or capital among different institutions or investors. But the diversity of the national regulations regarding pensions makes it difficult to understand the pension framework. It is the responsibility of pension institutions and other stakeholders to help employees to deal with this challenge.

The EAPSPI working group „Mobility and Pensions“ has been discussing the portability topic

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<sup>4</sup> EU COM „White Paper: An Agenda for Adequate, Safe and Sustainable Pensions“ COM (2012) 55 final.

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including the practice and conditions of transfers for several years. There are different ways to achieve the goal of mobility in the framework of the existing pension schemes. Practising transfers could be one of them. We have come to the conclusion that due to the diversity of pension regulation / schemes there is no single solution for encouraging mobility. Thus the solution is neither an obligation of transferability nor the harmonisation of pension schemes despite their different backgrounds and conditions.

In the following mobility report we will present the experiences and findings resulting from our work. Not all members of EAPSPI are represented here because some are currently undergoing pension reforms. The first part is about the present role of the transferability of pension values, how it is practised and existing obstacles in our schemes and countries. It is our ambition to publish afterwards a second part in which we will show other approaches. One of these is the clear, concise and understandable provision of information.

EAPSPI'S MEMBERS AND THEIR PRACTICE OF PORTABILITY



## Executive summary

The Austrian pension system is dominated by the first pillar. However, many reforms have taken place in Austria in the last 15-20 years with a view to reducing the coverage rate of state pensions and encouraging the establishment of more supplementary occupational pensions. The reform of the pension system is still underway and is an active topic of public debate.

Everyone in gainful employment is covered by the mandatory state pension. In addition to this there are second pillar occupational pensions. Traditionally, these had been little important but government taxation initiatives have seen an increasing number of employers set up occupational pensions for their employees in recent years. Lastly, some employees take out private, 3rd pillar pensions in order to have extra provision for their old age.

## 1 General information

### First Pillar

The mandatory state pension and social security covers every employee, except civil servants for whom special regulations exist. The state pension is a pay-as-you-go, mandatory, earnings-related, defined benefit pension. There is an income tested top-up for low earners. Top up (Ausgleichszulage) ensures a minimum income of € 814,82 per month for single people and

€ 1.221,68 per month for couples (2012 figure, adjusts annually).<sup>5</sup>

Two thirds of the cost of state pensions are covered by the contributions of all working people (employees and those in self-employment) and employers. Contributions are equivalent to 22.8 % of gross pensionable salary.<sup>6</sup> This 22.8 % consists of 10.25% employee contribution and 12.55 % employer contribution. Social security in Austria also includes contributions to health insurance, accident insurance, unemployment insurance, the cost of statutory representation and a range of other benefits. The contributions for all these amounts, including the 22.8 % for pension insurance comes to 48-53 % of total pay (employee pays 19 % employer pays 29-34 %).<sup>7</sup>

Retirement age is currently 60 for women and 65 for men. By 2033, it will be the same age regardless of sex. 180 months of contributions in sum or 180 months (of contributions and months replacing contribution months) in the last 300 months (or 15 years in the last 25 years) are necessary to qualify (slightly different conditions for those born before 1.1.1955). Periods of self-insurance while caring for a friend or relative, minding a disabled child or periods of family being in hospital also qualify for these 180 months. Periods of child care (up to 4 years) and

<sup>5</sup> <http://www.oecd.org/dataoecd/32/56/47272193.pdf> retrieved on 25.7.12 at 11:39

<sup>6</sup> [http://www.oenb.at/en/img/mop\\_2006\\_2\\_04\\_tcm16-45585.pdf](http://www.oenb.at/en/img/mop_2006_2_04_tcm16-45585.pdf) page 71, retrieved on 25.7.12 at 11:20

<sup>7</sup> [http://www.bmask.gv.at/cms/site/attachments\\_/1/6/3/CH2088/CMS1313745345149/social\\_protection\\_in\\_austria.pdf](http://www.bmask.gv.at/cms/site/attachments_/1/6/3/CH2088/CMS1313745345149/social_protection_in_austria.pdf) page 22, retrieved on 25.7.12 at 11:35

of receiving unemployment assistance are also considered contribution years.

Pension levels are based on the 24 best earnings years (2012 figure). This is gradually expanding and will take into account the full career average (40 years) by 2028. There was a contribution ceiling of € 55,020 per annum in 2008 which was equal to 142 % of average salary at the time.<sup>8</sup> (Figure for 2012: € 59,220,-)

Early retirement can be taken after 37.5 years of service. Otherwise, if retirement being before the age of 65, 4.2 % is deducted for every unpaid year. Correspondingly, late retirement beginning between 65 and 68 incurs a 4.2 % increase per extra year worked.

### Civil servants' pensions

Civil servants are defined as tenured staff in the public service. The pension legislation with regard to civil servants is gradually being harmonised with the mandatory pension scheme (Act on the Harmonisation of Austrian Pension Systems 2005). Regulations on civil servants' pensions depend on who their employer is e.g. provinces, local authorities or federal government.

### Special systems

These provide benefits in the same way as pensions do for victims of war/military service and those who have suffered occupational accidents and are thus disabled.

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<sup>8</sup> <http://www.oecd.org/dataoecd/32/56/47272193.pdf> retrieved on 25.7.12 at 11:39

### Second Pillar

The second pillar is financed by untaxed employer contributions to give employees a supplementary retirement income apart from the mandatory state pension. Traditionally, the second pillar has not been very strong in Austria but more 2nd pillar pension plans have been set up in recent years. 18 % of employees in Austria are entitled to occupational pension.<sup>9</sup> There are five kinds of occupational pension cover in Austria;

1. Pension funds,
2. Book reserves of the employer,
3. Life insurance
4. Voluntary higher contributions to the public pension system and
5. Occupational pension group insurance.

Today, most companies' occupational pensions have moved away from the traditional book reserves in favour of pension funds. These pension funds or „Pensionskassen“, take the legal form of a joint stock company. There are currently 6 multi-employer pension funds and 11 single employer pension funds in Austria.

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<sup>9</sup> Trampusch, Christine/Eichenberger, Pierre/de Roo, Micha/ Bartlett Rissi, Robin/Bieri, Isabelle/Schmid, Laura/Steinlin, Simon (eds.) (2010). *Pension in Austria*. REBECA (Research on Social Benefits in Collective Agreements). Database, Part 2 'Social Benefits in Collective Agreements'. SNF-Project No.100012-119898. Institute of Political Science, University of Berne. [http://www.bridge.uni-koeln.de/fileadmin/wisofak/wisosoz/pdf/REBECA/Austria\\_Pension\\_eng.pdf](http://www.bridge.uni-koeln.de/fileadmin/wisofak/wisosoz/pdf/REBECA/Austria_Pension_eng.pdf) retrieved on 10.7.12 at 14:51

Pensionskassen are defined by law in the „Pensionskassengesetz“ 1990 (Pensionskasse Act).<sup>10</sup>

The multi-employer pension fund itself is usually a subsidiary of a bank and/ or insurance company. When a company has more than 1,000 employees it can establish its own pension fund i.e. single employer pension fund. Employees and employer have to agree on the specifics of the plan according to a model contract or a „Betriebsvereinbarung“ (bargaining agreement) negotiated by the representatives of the employees and the employer. This agreement outlines the details of the contributions that have to be paid and the corresponding obligations of the members. Contributions are paid primarily by the employer. Employer contributions are also tax-deductible from their running expenses.

However, employees can make additional contributions provided these do not exceed the contributions of the employer. The plan consists of an occupational pension for the employee and also a social security plan in the event of disability or for his/her dependants in case of death. There are both defined benefit and defined contribution plans in Austria. The Company Pension Plans Act of 1990 outlines the rules for vesting of pension rights in Austria. In principle, the pension entitlements are immediately vested but with regard to pension funds and book reserves a vesting period of up to five years (for pension funds as from 2013 on: three years) can be agreed upon in the „Betriebsvereinbarung“ or „Kollektivvertrag“ (collective agreement).<sup>11</sup>

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<sup>10</sup> <http://www.fma.gv.at/en/companies/the-austrian-pensionskassen-system.html> retrieved on 10.7.12 at 15:40

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<sup>11</sup> <http://euracs.eu/summaries/austria-pension-summary/> retrieved on 25.7.12 at 14:09

### **Some facts and figures about the Austrian pension industry**

Civil servants' pensions account for 14 % of all pensions in Austria.<sup>12</sup>

In 2008, average earnings in Austria stood at € 38,800 per annum. Public pension spending was 12.3 % of GDP, life expectancy at birth was 79.9 years and the population aged over 65 as a percentage of the working age population was 27.6 %.

The gross replacement rate is 76.6 % of individual gross earnings according to OECD.<sup>13</sup> (OECD assumes 45 years contributions)

In 2004, the EPC (Economic Policy Committee of the European Council) placed the gross replacement rate in Austria at 64 %.<sup>14</sup> (EPC assumes 40 years of contributions)

In 2009, assets under management grew from € 12.4 bn to € 13.8 bn and the total number of members of Pensionskassen was 711,349.

On average, the benefits received from occupational pensions made up 12 % of people's retirement income in 2010.<sup>15</sup>

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<sup>12</sup> [http://www.bmask.gv.at/cms/site/attachments/1/6/3/CH2088/CMS1313745345149/social\\_protection\\_in\\_austria.pdf](http://www.bmask.gv.at/cms/site/attachments/1/6/3/CH2088/CMS1313745345149/social_protection_in_austria.pdf) page 30, retrieved on 25.7.12 at 11:34

<sup>13</sup> <http://www.oecd.org/dataoecd/32/56/47272193.pdf> retrieved on 10.7.12 at 14:20

<sup>14</sup> [http://www.oenb.at/en/img/mop\\_2006\\_2\\_04\\_tcm16-45585.pdf](http://www.oenb.at/en/img/mop_2006_2_04_tcm16-45585.pdf) page 84, retrieved on 10.7.12 at 14:18

<sup>15</sup> [http://www.pensionskassen.at/Country%20Reports/CR\\_2010\\_01.pdf](http://www.pensionskassen.at/Country%20Reports/CR_2010_01.pdf) retrieved on 10.7.12 at 14:29

## 2 Detailed information

Austria (Bundespensionskasse AG)	Description
Type	Single-employer Pension Fund
Benefit (sort of pensions, what is insured)	Old-age Disability Survivors
Financing	Funded by contributions of employers (and employees)
Indexation	According to return on investment
Waiting / vesting periods	Vesting: Up to five years (as from 2013 on: three years) according to contractual provisions
Based on collective agreement	Yes (and few model contract if no works council exists)

The Bundespensionskasse is one of the largest pension providers in Austria with app. 210,000 members. The company is 100 % owned by the

Austrian Republic and manages the supplementary pensions of national teachers as well as other civil servants. <sup>16</sup>

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<sup>16</sup> <http://www.bundespensionskasse.at/fuer-dienst-nehmerinnen-des-bundes-landeslehrerinnen/haeufige-fragen/allgemeines.html#t3m-faq-ext-cat1-uid55> retrieved on 31.7.12 at 13:27



Austria (Valida Pension AG)	Description
<b>Type</b>	Multi-employer Pension Fund
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors
<b>Financing</b>	Funded by contributions of employers (and employees)
<b>Indexation</b>	Funded by contributions of employer (and employees)
<b>Waiting / vesting periods</b>	Vesting: Up to five years (as from 2013 on: three years) according to contractual provisions
<b>Based on collective agreement</b>	Yes (or model contract if no works council exists)

Valida takes care of the pensions of approximately 5,000 employers from a variety of backgrounds, both public and private.<sup>17</sup> The pensions are supplementary, voluntary, funded and governed by law.

Valida is governed by an Executive Committee and a Supervisory Board. The Supervisory Board contains both employers and employee representatives so all parties are represented in

the government process. The company itself is supervised in turn by the financial market supervisory authority, the state commissioners and by means of internal audit.

The ownership of Valida is made up of approximately 53 % Raiffeisen bank, 7 % other Austrian banks and insurance companies and 40% UNIQA insurance.<sup>18</sup>

<sup>17</sup> <http://www.valida.at/DE/%c3%9cber%20Valida/Valida+Vorsorge+Management.aspx> retrieved on 31.7.12 at 13:54

<sup>18</sup> <http://www.valida.at/DE/%c3%9cber%20Valida/Valida+Vorsorge+Management.aspx> retrieved on 31.7.12 at 13:57

Austria (VBV Pensionskasse AG)	Description
<b>Type</b>	Multi-employer Pension Fund
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors
<b>Financing</b>	Funded by contributions of employers (and employees)
<b>Indexation</b>	According to return on investment (dc) or to contractual provisions (db)
<b>Waiting / vesting periods</b>	Multi-employer pension fund
<b>Based on collective agreement</b>	Supplementary pensions in case of Old Age, Disability, Death

VBV is a multi-employer pension fund. It is one of the biggest corporate pension funds in Austria. It has contracts with more than 4,000

employers and has app. 270,000 existing or prospective beneficiaries. Sustainable investment is a central part of the VBV pension fund. <sup>19</sup>

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<sup>19</sup> <http://www.vbv.at/DE/Die%20VBV/Gruppe.aspx>  
retrieved on 10.7.12 at 11:39

## Portability

The conditions for international transfers are set out in the „Betriebspensionsgesetz“ (Company Pension Act) 2005. In section five the procedure for determining the cash equivalent transfer value (CETV) if the employment is terminated is described; from the vested pension rights a CETV is calculated based on the risks associated with age and death in the particular case. Then it is stated which possibilities of transfers are allowed when this value is determined: Transfers to the Pensionskasse or occupational pension group insurance of a new employer, or to the pension institution where the employee already has vested pension entitlements if the new employer does not give a „Pensionskassenzusage“ (pension promise), also transfers to a foreign occupational pension provider in the event of moving to a foreign employer.<sup>20</sup> According to the Company Pension Act the vesting amount can also be converted into a „non-contributory qualification“ with the previous Pensionskasse (section five (2) (1.)).

Section 26, (7) (a) of the Austrian Income Tax Act (Einkommensteuergesetz) outlines the rules for taxation of transfers. It states that transfers to foreign pension funds as defined in section 5 Z 4 of the Pension Fund Act are not subject to tax.<sup>21</sup>

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<sup>20</sup> [http://www.bmask.gv.at/siteEN/Specialist\\_public/Labour\\_Law/Occupational\\_retirement\\_provision/](http://www.bmask.gv.at/siteEN/Specialist_public/Labour_Law/Occupational_retirement_provision/) retrieved on 25.7.12 at 14:18

<sup>21</sup> [http://www.jusline.at/26\\_Leistungen\\_des\\_Arbeitgeber\\_die\\_nicht\\_unter\\_die\\_Einkunfte\\_aus\\_nicht-selbstandiger\\_Arbeit\\_fallen\\_EStG.html](http://www.jusline.at/26_Leistungen_des_Arbeitgeber_die_nicht_unter_die_Einkunfte_aus_nicht-selbstandiger_Arbeit_fallen_EStG.html) retrieved on 10.7.12 at 15:37

## 3 „Reality“ of portability and occupational mobility

Portability is possible but the vesting periods are relatively long. People on short term contracts often will not fulfil the required contribution periods and thus are not entitled to seek a transfer of their pension rights. But in most of the contracts, vesting periods are below five years or even not provided. Therefore portability normally works and is „real“.

## 4 Reforms

There were substantial pension reforms in Austria in the 2000's, most notably in 2000, 2003 and 2004. These reforms were brought about out of a need to address the unsustainability and over-generosity of pensions in Austria at that time. The system had to be changed to reflect the demographic changes in society of higher life expectancy and lower fertility rates.

The financial crisis of 2008 has led to calls for further reform and in May 2012, the Austrian parliament eventually approved a reform of the law governing Pensionskassen. In the Green Paper on pensions the European Commission expressed its concern that defined contribution pensions are far more prevalent nowadays and that while promoting longer working lives, they are leaving the investment, inflation and longevity risks on the shoulders of the individual

scheme members.<sup>22</sup> Considering the financial crisis, the Austrian government introduced a „safety pension” with a lower interest rate and guarantees for the level of first paid-out pension benefits as new pension plan. These second pillar reforms will come into effect in 2013. The government has already hinted that there will be further reforms.<sup>23</sup>

These reforms have also led to considerable harmonisation between the mandatory state and the civil servants pension schemes which previously had major differences. The goal of the reform is that everyone will be able to retire at age 65 with an average 80 % coverage rate, provided they have 45 years of contributions.

## 5 Taxation

The rules on taxation are set out in the „Einkommensteuergesetz” (Income Tax Act).

Employer contributions are exempt as per the internationally standard EET system. Employee contributions, however, are taxed but there are tax incentives and there is the possibility to get a limited tax reduction after the declaration of individual income tax. However, subsequent payments are only taxed up to 25 % as they are deemed to have come from contributions which have already been taxed.<sup>24</sup>

## 6 Challenges / trends / best practice

Austrian occupational pensions are well on the way to recovering from the losses incurred during the 2008 financial crisis. In 2009, Austrian pension funds recorded a 9 % average return and in 2010 this positive trend continued. In 2012, further reforms were approved by the Austrian parliament and more reforms are still being mooted.

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<sup>22</sup> Green Paper - towards adequate, sustainable and safe European pension systems, European Commission, Brussels 7.7.2010, COM (2010) 365 final.

<sup>23</sup> [http://www.ipe.com/news/austrian-parliament-finally-approves-reform-of-second-pillar-pension-system\\_45516.php?s=austria](http://www.ipe.com/news/austrian-parliament-finally-approves-reform-of-second-pillar-pension-system_45516.php?s=austria) retrieved on 10.7.12 at 14:34

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<sup>24</sup> <http://www.ris.bka.gv.at> (Einkommensteuergesetz – EStG)

## Executive summary

The Finnish pension system has many features that differentiate it from the pension systems of other European countries. The most notable feature is perhaps the relative importance of the first pillar pensions. The great majority of employees collect only the earnings-related first pillar pension without any second or third pillar pension arrangements. This also sets the scene for the issue of pension portability.

The legal framework prevents pension transfers altogether. Instead of pension transfers mobility of employees is supported by incorporating zero waiting and vesting periods. The central principle of the pension system is to treat both present and former employees equally. This means that all benefits are accrued and indexed in the same way not depending on the employer or the pension provider. Also, the system functions in the same way regardless of whether the move is within the same sector, across sectors (like private to public or vice versa) or across countries.

## 1 General information

Finland has two statutory pension systems, which complement each other: the national pension system and the earnings-related pension system.

The national pension is residence-based and offers a basic income (guaranteed pension of

€ 714 per month) for persons who are entitled only to a very small earnings-related pension or to none at all. The earnings-related pension system covers almost all gainful employment. The two schemes together secure the income in the event of old age, incapacity for work and death of the family breadwinner.

Within the earnings-related pension system there are separate pension acts for private-sector employees, self-employed persons, farmers, seafarers, state employees and local government employees.

Earnings-related pension provision is financed jointly by the employers and the employees. The financing is organized on the basis of partial funding. Roughly 30 % of the total liabilities are funded and 70 % is financed through pay-as-you-go method. The national pensions are financed through tax revenues on a pure pay-as-you-go basis.

Both the national pensions and earnings-related pensions are characterized as parts of the first pillar of pensions due to their statutory nature. In the Finnish system the role of second pillar pensions is very limited since the level of earnings-related pension is set to a level that offers sufficient income for most employees (on average around 60 % of final salary). There are some second pillar arrangements in the form of company or industry-wide pension schemes but they constitute only a few percent of the whole pension system.

### Some facts and figures about the Finnish pension industry

2010	Pension insurance premiums	Pension expenditure
First pillar	93,7 %	95,2 %
- national pension & other	12,3 %	13,0 %
- occupational pension	81,4 %	82,2 %
Second pillar	3,9 %	2,2 %
Third pillar	2,4 %	2,6 %

First pillar occupational pension schemes cover practically 100 % employees (private and public sector), self-employed persons, farmers and seafarers.

In 2011, there were 7 mutual pension insurance companies, 14 company pension funds, 7 industry-wide pension funds and 2 special funds/pension institutions in the private sector and 7 pension institutions/funds taking care of the public sector employees.

The size of the funds varies considerably due to insured employees and the funding principle, e.g. in 2011:

	Fund (€ bn) proportion of insured & pensioners	
- Mutual pension insurance companies	84,7	61,4 %
- Farmers pension institution and seafarers pension fund	0,9	5,5 %
- Company & industry-wide pension funds	5,0	2,4 %
- Public sector pension institutions/funds	45,6	30,7 %
Total	136,3	

The third pillar individual pensions are offered by life insurance companies and there are some tax incentives for persons entering into these arrangements. Third pillar pensions also have a relatively limited and supplementing role in the pension system.

## 2 Detailed information

Finland (Keva)	Description
<b>Type</b>	Defined Benefit Average pay No Defined Contribution First pillar arrangement, no part of the second pillar
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors Others: Partial pension
<b>Financing</b>	Partially Funded PAYG with a buffer fund
<b>Indexation</b>	Yes, mandatory.
<b>Waiting / vesting periods</b>	Minimum age: 18 years. No waiting periods No vesting periods
<b>Based on collective agreement</b>	Based on law with prerogative from the social partners.

Keva is an independent public corporation that handles pension applications, pension decisions, rehabilitation, customer service and the payment of pensions for persons covered by the local government, state, Evangelical Lutheran Church of Finland and Kela (The Social Insurance Institution of Finland) pension schemes. Keva serves 1.3 mn active members and pension recipients. The total pension expenditure in 2011 was € 7.2 bn. Keva employs 540 experts.

Keva is responsible for funding the earnings-related pension scheme of municipal sector employees under the Local Government Pensions Act. At the end of 2011 the pension scheme covered 509,000 active members, 349,000 pension recipients and about 620,000 deferred members. At the end of 2011 the market value of investments was € 29 bn and the present value of the accrued benefits was € 96 bn.

### **Scheme features of Keva**

The local government in Finland consists of municipalities, joint municipal organisations and municipality-owned companies. The responsibilities of municipalities are relatively wide compared to some other European countries. For example, the provision of all health care and education (with the exception of universities) has been delegated to municipalities. In total, the number of active employees is over half a million.

The description of pension benefits along with the financing and administration principles are given in the Local Government Pensions Act (KuEL). According to the legislation, local government pensions are provided solely by Keva (the Local Government Pensions Institution) with the exception of municipality-owned companies that do have an option to organise employees' pensions either in the local government or the private sector pension system. In practice, the benefits are almost identical in the two systems. Although the scheme benefits and other details are given by law the social partners have a central role in defining the scheme features. The whole Finnish pension system is devised along the lines negotiated by the social partners together with the government.

The local government pension scheme is a defined benefit scheme based on career average pay. The scheme benefits consist of old-age benefits, disability benefits and survivor benefits. Pensionable age in the old-age pension is flexible between 63 and 68 years of age. The standard

accrual rate is 1.5 % per year but from age of 53 it is raised to 1.9 %. In order to incentivize elderly employees to continue working the accrual rate raises further from 1.9 % a year before age of 63 to 4.5 % after 63 years of age.

In the whole earnings-related pension system the minimum age of accruing benefits is 18 years. After this age, the accruing is immediate with no waiting or vesting periods.

The benefits are indexed mandatorily and equally in every sector. Both accrued and paid benefits are indexed by a combination of price and wage index. In case of accrued benefits the indexation is 80 % wage index and 20 % price index. Benefits paid are indexed with a combination of 20 % wage index and 80 % price index.

The financing of local government pensions is organised on a pay-as-you-go basis. In order to alleviate the impact of increasing pension burden in the future a buffer fund was established in 1988. At the moment the total liabilities of the scheme are almost € 100 bn and the size of the buffer fund around € 31 bn.

### **Portability legislation**

The legal framework of Finnish pension system does not allow transfer of pension in any form (the only exception being transfers to the Pension Scheme of the European Union Institutions required by the EU). This is mainly due to the statutory first pillar nature of the earnings-related pension system. Also, the system has a relatively



complex financial structure that does not support any kind of portability.

The description below concentrates on the first pillar part of the earnings-related pension system. The portability of national pension system is based on legislation and contracts of social security. On the other hand the role of second pillar earnings-related pensions is very limited since for almost all employees the earnings-related pension consists of the first pillar part only.

### **3 „Reality” of portability and occupational mobility**

The Finnish system is worked out in the first pillar (EC 883/2004). That is why cross-border portability is not possible. There is only a supranational transfer of the earnings-related part of the first pillar-pensions to the Pension System of the European Union, see chapter Transfers to the PSEUI-Scheme of the European Institutions (p. 67).

Despite the fact that transferring pensions is not possible the Finnish system comprises many features that do promote mobility within the country and also cross-border. Firstly, there are no waiting or vesting periods. This guarantees that no immediate pension losses occur in the case of a job change. Secondly, the vested benefits staying with the pension institutions of the former employers are indexed in exactly the same way as if they were indexed by the pension institution of the current employer (indexation is mandatory

and equal for the whole earnings-related pension system). Since the benefits do accrue according to the average pay („every euro earned gives the same pension”) the employee normally cannot even observe any discontinuation in his/her pension cover when changing jobs. Only in case of an employee with long employment history in the public sector before 1993 changing to the private sector there could be some impact in a form of a pension loss. However, this feature of the system is gradually disappearing over the next 15 years.

The feature described above covers moves within a sector (private/public), across private and public sector and also moves to another country. If an employee decides to work in another country his/her accrued pension stays within the Finnish pension system and is treated in the same way as any other accrued pension guaranteeing that there is no discrimination between the moving employee and the employees remaining in the scheme.

#### **Principle of last pension institution**

The Finnish pension system is relatively liberal in giving current and previous employees the same rights. Implementing this principle means that the pension of a single employee may consist of several pieces of pension registered in the data bases of different pension providers. In order to help the administration of the system and the communication towards the employees, a mechanism called „principle of last pension institution” is established. This simply means that the pension provider of the last employer before

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retirement collects all the pension “pieces” together and pays the pension as one monthly sum. The liabilities of different pension providers are then leveled in a separate clearing system. To confirm a smooth functioning of the system, a common register of employment data of all employees has been established. The information stored in this register is also used in providing a common information letter („Pension Extract”) to the employees involving data of the whole career earnings and accrued pension.

#### **4 Challenges / trends / best practice**

For long, the Finnish pension system has been promoting mobility by removing all waiting and vesting periods in the earnings-related first pillar pension system. Since the pension is based on the earnings of the whole career and the indexation is mandatory, no pension losses occur if employees change jobs. Also, since transfers are not allowed there are no extra costs for the employees and employers. Furthermore, the pension providers need no extra liquidity for executing required pension transfers. As a whole the internal system seems to function quite well and no major challenges are in sight as far as execution of portability is concerned.

## Executive summary

Germany belongs to those Member States in which old-age pensions provision are basically provided by the state basic pension system. As in other Member States, the demographic challenge has to be faced. The number of workers available on the employment market will fall significantly until 2050.

To meet the challenge, there was a stepwise increase of the standard retirement age to age 67 in 2029.

Occupational pension has a long history in Germany, dating back to the beginning of the 19th century. It has significantly grown in the past years. In 2006, 65 % of the employees had rights in an occupational pension. In the public sector, the coverage is almost 100 %.

In 2004, a regulation was introduced in the occupational pensions law allowing transfers of vested benefit entitlements under certain conditions. Specifically in the public sector, where the occupational pension is based completely on collective agreements, portability has already been practised for decades.

## 1 General information

Germany is one of the Member States with still low poverty risk in old-age. Additionally, it belongs to those Member States in which old-age pensions are basically provided by the state basic pension system.

The challenges posed by old-age provision have not changed in the past years. Due to the demographic development, the number of workers available on the employment market will fall significantly until 2050. Decreasing numbers of employees must therefore pay for increasing numbers of pensioners<sup>25</sup>.

To ensure that pension schemes provide an adequate level of benefits and also to ensure their financial sustainability, there has been a stepwise increase of the standard retirement age in the statutory social pension insurance to age 67 between 2012 and 2029. Additionally, the access to occupational old-age pension schemes improved.

Statutory pension insurance in Germany is still the most important pillar of old-age provision. Around two-thirds of all income received by those aged 65 and over comes from the statutory pension insurance. People therefore have great confidence in the pension insurance. According to current survey, almost three quarters of the adult population consider this state pension to be an

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<sup>25</sup> National Strategy Report, social protection and social inclusion 2008 – 2010, Berlin, 30.07. 2008, page 16, page 61.

ideal form of old-age provision. However, it is also clear that living standards in old-age can only be maintained by supplementary occupational or private pension<sup>26</sup>.

### **Role of occupational pension**

Occupational pension has a very long tradition in Germany. Some big enterprises started with their own occupational pension systems at the beginning of the 19th century. In the past years, occupational old-age provision has been on a path of growth. At the end of 2006, 65 % of the people

in active employment subject to social insurance had acquired rights to an occupational retirement pension. As well, private pension provision is expanding further. Particularly in the public service, occupational pension is widespread. Almost 100 % of the employees in the public sector are entitled to an occupational pension. That is because collective agreements cover basically all of the public sector. These agreements include not only rules concerning the general working conditions but also the occupational pension provision.

### **Some facts and figures about the German second pillar**

64 % of German employees are enrolled in an occupational pension scheme.

Due to social partner agreements, 100 % of the German public service are in an occupational pension scheme. In 2010, there are € 468,9 bn assets under management in the second pillar.

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<sup>26</sup> National Strategy Report, 2008, social protection and social inclusion 2008 – 2010, Berlin, 30.07.2008, page 16, page 68.

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<sup>27</sup> [http://www.aba-online.de/seiten/betriebsrente/daten\\_fakten/1\\_Deckungsmittel\\_bav/1a\\_deckungsmittel.html](http://www.aba-online.de/seiten/betriebsrente/daten_fakten/1_Deckungsmittel_bav/1a_deckungsmittel.html)

## **Legal Basis**

Occupational pension is regulated by the Act on Promotion of Occupational Pensions (Betriebsrentengesetz – BetrAVG). Its § 1 designs what has to be regarded as occupational pension in Germany.

Looking closer at the occupational pension landscape, German employers have five possibilities for occupational pensions. The pension promise can be provided as

- Direct pension promise backed by book reserves (Direktzusagen),
- Support funds (Unterstützungskassen),
- German (staff) „pension funds” (Pensionskasse), direct insurance (Direktversicherung) and
- Pension investment funds (Pensionsfonds).

All of them have the same target, providing occupational pension for the work force, but the different ways require different tax treatment as well as different accounting treatment.

One main characteristic of the German occupational pension provision is the vesting period of

five years which is ruled by law. It is applicable, if there is no collective or other agreement between employer and employee which is more advantageous. In case of conversion of earnings, there is immediate vesting. If the pension scheme providing the provision of an employer goes bankrupt the pension promise still remains and has to be satisfied by the employer himself. With the exception of Pensionskassen most pension claims are protected by the German Guarantee Association (PSV), which has to satisfy the claims of beneficiaries in case of employers` insolvency. Members of Pensionskassen are not protected like that because the employees accrue direct claims against the fund.

## **Mobility of the workforce in Germany**

Occupational pensions in Germany are ruled by the Act on Promotion of Occupational Pensions (Betriebsrentengesetz). In 2004, a new regulation was introduced in this law allowing transfers not only of occupational pension promise but of the capital value under certain conditions. One of those is that only funded pension schemes are concerned (see following detail information).

## 2 Detailed information

Germany (AKA and VBL)	Description
<b>Type</b>	Defined Benefit Average pay No Defined Contribution
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors:
<b>Financing</b>	Funded hybrid or PAYG
<b>Indexation</b>	Yes
<b>Waiting / vesting periods</b>	No minimum age Waiting or vesting periods: five years of contribution-paying is being required for accruing pensions Latent-
<b>Based on collective agreement</b>	Yes (ATV, ATV-K)

The Arbeitsgemeinschaft kommunale und kirchliche Zusatzversorgung (AKA) e.V. is the pension association for local and church employees and civil servants in Germany. It covers 24 pension institutions of the public and church sector and 21 institutions for civil servants, who service together over 6.5 mn people and over 50.000 employers. 1.2 mn pensioners receive around € 4.5 bn benefits.

On behalf of the German Federal Government and the Länder with the exception of the Saarland and the Hanse City of Hamburg the VBL

(Versorgungsanstalt des Bundes und der Länder) has been providing public-sector occupational pensions for more than 80 years. It is the largest provider of supplementary pensions in Germany. Occupational pensions are based on the collective labour agreements negotiated between employers and the unions. Currently some 5,300 participating employers and about 4.3 mn insured employees use VBL's services. More than 1.2 mn pensioners receive a supplementary pension from VBL alongside their state pension and the amount of AUM (assets under management) is about € 16 bn.

### **Scheme features of AKA and VBL:**

Supplementary pensions of employees in the German public sector is settled in collective agreements, the Tarifvertrag Altersversorgung (ATV) and the Tarifvertrag Altersversorgung-Kommunal (ATV-K), which ensure the same level of service and benefits. Thus, there is basically homogenous occupational pension for employees in the public and church sector despite the various providers and different laws in the German regions.

In 2001, the former top-up scheme of the German public sector was closed and has been replaced by a mandatory points-based scheme. With the new supplementary pension arrangements, employers and unions also created the basis for an additional voluntary occupational pension offered by the occupational pension providers of the public sector. These voluntary occupational pension schemes are fully funded.

The mandatory point-based scheme includes the entitlement for employees to get the pension they would receive if 4 % of their pensionable income were paid into a funded scheme. The mandatory insurance requires a vesting period of 60 months of contributions for accrued pensions. The amount of occupational pension which the employees receive under this DB-scheme depends on the number of pension points collected in line with age and pensionable income. Surviving spouses and orphans will also receive pension benefits.

A pension will also be paid in the case of disability of work.

The voluntary occupational pension can be handled by the conversion of earnings (Entgeltumwandlung). In case of conversion of earnings, there is immediate vesting.

There are various financing methods according to the different providers. Regarding the mandatory insurance, some are still based on a pay-as-you-go (PAYG) basis, some – especially church schemes – are funded. Some others, mostly in the regions of Eastern Germany, the former GDR, are partially pay-as-you-go and partially funded, meaning they are hybrid schemes.

The voluntary insurance was funded from the very beginning.

### **Portability legislation**

#### **National Portability**

Transfers of vested benefit entitlements are possible corresponding to the Act on Promotion of Occupational Pensions (Betriebsrentengesetz, BetrAVG) if the required conditions are fulfilled.

Due to the law, the vesting period nowadays is five years, except in the case of remuneration conversion (see above). The law is applicable only to vested entitlements. If the pension scheme provides a shorter vesting period or

entitlements are immediately accrued by contract, transfers are possible in accordance with the German General Civil Law.

The Act on Promotion of Occupational Pensions allows two ways of transfers: Either the new employer takes over the pension promise of the former employer (Übernahme der Versorgungszusage), or there is a transfer of the accrued capital value (Wertübertragung) and the new employer must give an equal pension promise.

Both cases can be agreed upon on a free decision between the old and the new employer, and additionally the approval of the employee. Under certain conditions, the employee might be entitled to transfer. The prerequisites are that

- The pension promise of the old employee has been given after December 31, 2004,
- The entitlement of the employee is vested,
- The occupational pension has been with an external funded scheme and will be carried on with the new employer as well by an external funded scheme,
- The transfer value is not beyond the social security contribution ceiling in the state pension and
- The claim has been made within a limit of one year after the employment contract has ended.

According to the law the transfer amount has to be calculated as capital equivalent transfer

value (CETV) on the basis of generally accepted actuarial principles. The value is to be fixed at the time of transfer.

Hence, if transfers are based on social partners' agreements, there might be different rulings. Trade unions and employers can create specific regulations.

#### **Portability in the collective agreements of the German public service**

The supplementary pension scheme in the public service in Germany is based completely on collective agreements. Occupational mobility in this sector therefore shows specifics.

- According to law, only funded schemes match the requirements for a transfer of the CETV. Regarding the public service, pay-as-you-go financed as well as hybrid financed schemes have to support mobility. According to the collective agreement in the public service, a transfer of accrued rights can be executed to any other pension institution of the public service in Germany. This transfer is based on so-called transfer agreements (Überleitungsabkommen). In 2004, AKA's institutions agreed on a transfer agreement, based on the previous legal situation. In the case of job mobility among employers covered by AKA institutions the pension points can now be transferred on employees' request. The transferring institution must pay to the new institution



the cash equivalent of pension points as financial compensation.

- The transfer agreement between the pension institutions of AKA and VBL provides different measures. The pension rights accrued in the scheme will not be transferred as previously. However, on employees' request, there can be a mutual recognition of the insurance periods provided the qualifying period of 60 months has been completed. For bonus points the minimum period to be completed is 120 months. At retirement, employees will obtain two pensions, one from VBL and another one from the last pension institution of AKA.

The vesting period must not been fulfilled for applying the recognition of periods. Periods covered by different employers in public service are added.

Regarding tax treatments of the transfers, any transfers within the rules of § 4 BetrAVG are tax exempt. This has been clarified in the taxation rules (§ 3 No. 55 of the Income Tax Act (EStG)).

### **International Portability**

The Act on Promotion of Occupational Pensions covers no international portability.

Yet, it is still unclear if transfers outside the rules of § 4 BetrAVG, as explained above, especially cross-border outbound transfers are tax exempt or not.

## **3 „Reality” of portability and occupational mobility**

### **National Portability**

In the public sector portability is practiced under the circumstances described above.

Changes of workplaces between public and private sector are increasing. CETVs accrued with the fully funded voluntary insurance of public sector's pension institutions have to be transferred in and out under the above named conditions of the act on Promotion of Occupational Pensions.

In the private sector, there is as well a transfer agreement from the German association of the insurance industry (GDV), defining rules for a transfer. Non-German insurance companies can join this regulation if they are entitled to do business in Germany and if they are member of the GDV.

In both sectors there occur no costs of transfer when rights are transferred.

### **International Portability**

Cross-border-portability is only practiced in very few cases. That is why some uncertainties still exist concerning the disengaging of the former schemes and employers from any liability.

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#### **4 Challenges / trends / best practice**

The insecurities in case of cross-border portability should urgently be solved, e.g. by concretising the existing laws. The target is to enable a cross-border portability of capital value in the sense of the free movement of

labour and to enable employees to estimate the consequences of cross-border portability. If there is a situation of portability employees should be able to judge if taking the accrued rights cross-border is reasonable and will not cause a reduction compared to the previous value of the pension rights.

## Executive summary

Ireland is going through a tough period economically with severe fiscal adjustments in all areas. This is reflected in the area of pensions including reforms in both the first and second pillar.

### 1 General information

The Irish pension system is divided into two main pillars. The first is the social welfare pay-as-you-go system which is administered by the government and funded through social insurance contributions and tax revenue. The second consists of supplementary pensions including public service pay-as-you-go schemes and voluntary funded occupational pension schemes set up by employers. There are also some voluntary personal pensions arranged by individuals (third pillar).

There are a wide range of social protection initiatives in place in Ireland and so the risk of old age poverty is currently low. This is because almost everybody qualifies for the non-contributory state pension which ensures that everyone over 66 can maintain a modest living standard. Although the rates may drop and the qualifying age will be pushed out to 68 by 2028<sup>28</sup>, this is still a significant security of

income for old people. Therefore the first pillar state pension is still very important in Ireland.

However, second pillar occupational pension plans are widespread. There are also third pillar personal pension plans, often used in a supplementary capacity to give people extra income for retirement. At the end of 2010, the value of Irish pension funds stood at over € 75 bn and other occupational and voluntary schemes covered 51 % of the population.

#### Role of the first pillar

The non-contributory state pension is the easiest pension to qualify for. It is open to all people in Ireland aged 66 and over who pass the habitual residence condition and who have no other means of earning income in excess of € 200 per week. In 2011 the rate of this pension stands at € 219 for 66-80 year olds and € 229 for all qualifying persons over 80 years.

In addition to this there are the contributory state pension and the transition state pension (the transition state pension is being phased out and will be gone in 2014). Ten years of PRSI (Pay Related Social Insurance) contributions have to be paid to qualify and to get the full amount an average of 48 weeks has to be paid up per year over 30 years (on average). The 2011 rate was € 230.30.

The state also provides a disability or invalidity pension which matches the rate of the contributory pension (€ 230.30) and is a follow on

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<sup>28</sup> <http://www.independent.ie/national-news/state-will-begin-process-of-raising-retirement-age-to-68-in-four-years-2085240.html> retrieved on 4.10.11 at 14:43

from the disability benefit social welfare payment.

### **Role of the second pillar**

In the private sector in Ireland, generally only large employers have occupational pension schemes. There is no legal obligation on employers to provide occupational pension schemes for employees. However, there is positive government encouragement to do so.

In the public sector, occupational pension plans are compulsory and are a part of the employment contract. These are called statutory plans and are set up by legislation.

There are both defined contribution plans and defined benefit plans.

Virtually all occupational pension schemes are funded - the contributions are put into a designated fund and the benefits are paid from that fund. The most notable exception is the public service pension arrangement where there is no fund and benefits are paid out of current government funds. To this end the NPRF (as described below) has been established.

### **Role of the third Pillar**

A retirement annuity contract (RAC) is the formal name for a personal pension plan approved by the Revenue Commissioners. It is a defined contribution plan generally for non-pensionable employment and self employment. The tax relief available on contributions is the

same as with occupational pension plans and may be claimed back from the revenue commissioners at the end of the tax year. However, in a situation where an RAC is being used in conjunction with an occupational pension scheme the tax relief may only be claimed in respect of one of the plans. All funds invested in an RAC are free from income tax and personal gains tax.

The other version of personal pension in Ireland is a personal retirement savings account (PRSA). Every adult under 75 is entitled to take one of these out. They are used as another means for making savings on non-pensionable or self employment. The same rules for tax relief apply as per RACs.<sup>29</sup>

### **NPRF**

A further feature of the Irish pension system is the National Pensions Reserve Fund (NPRF). Established in 2000, the purpose of the NPRF is to pre-fund in part the future exchequer cost of social welfare and public service pensions. A statutory obligation has been placed on the government to pay a sum equivalent to 1 % of GNP into the fund each year until at least 2055. Draw-downs are prohibited prior to 2025. At the end of 2010, the NPRF had assets of € 22.7 bn.

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<sup>29</sup> [www.pensionsboard.ie](http://www.pensionsboard.ie) retrieved on 4.10.11 at 14:46

## Recent reforms

### Social welfare pensions

The Transition state pension will be abolished from 2014, while the age of qualification for state pensions will rise to 67 in 2021 and then to 68 in 2028. The National Pensions Framework provides for a „total contributions approach” to replace the current average contributions test for the Contributory state pension from 2020 onwards.

### Public service pensions

The Minister for Public Expenditure and Reform is introducing a new single pension scheme for all new entrants to the public

service. The main provisions of the new scheme are:

- Raising the minimum pension age to 66 years initially and then to link it to the state pension age - this has been increased to 66 years in 2014, 67 in 2021, and 68 in 2028;
- A maximum public service retirement age of 70 years;
- Career average rather than final salary will be used to calculate pension; and
- Post-retirement increases will also be linked to the Consumer Price Index (CPI).

### Some facts and figures about the Irish second pillar

In 2010, there were 809,961 people in 76,291 occupational pension schemes.<sup>30</sup>

This amounts to 43.5 % of a workforce of about 1,859,100.<sup>31</sup>

Of these people in occupational pension schemes about 350,000 people are in public sector pension funds.

<sup>30</sup> [http://www.pensionsboard.ie/en/News\\_Press/News\\_Press\\_Archive/Minister\\_for\\_Social\\_Protection,\\_Joan\\_Burton\\_T\\_D\\_launches\\_The\\_Pensions\\_Board\\_Annual\\_Report\\_2010.html](http://www.pensionsboard.ie/en/News_Press/News_Press_Archive/Minister_for_Social_Protection,_Joan_Burton_T_D_launches_The_Pensions_Board_Annual_Report_2010.html) retrieved on 5.10.11 at 14:14

<sup>31</sup> <http://www.cso.ie/statistics/empanunempilo.htm> retrieved on 7.10.11 at 10:44

**Legal Basis**

The Pensions Act 1990 (2002 as amended) is the legal framework for the pension system in Ireland in all three pillars. This includes the Local Government Superannuation Scheme (LGSS) as set up by the 1990 Pensions Act. This deals with the 100,000 people employed by the state in local authorities, health service executives and other statutory bodies. In addition to this, the Model Superannuation Scheme

2004 is the statutory framework for the occupational pension plans of most of the public sector and semi state bodies. Each company sets up its own model scheme under this framework according to the rules laid out by the Department of Finance.

The Pensions Board was also set up under the 1990 Pensions Act. It is the regulatory authority of all occupational pension schemes, trust RACs and PRSAs in Ireland.<sup>33</sup>

**2 Detailed information**

Ireland (DOE, DOF)	Description
<b>Type</b>	Defined Benefit, flat rate state
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors
<b>Financing</b>	Pay-as-you-go, National Reserve fund
<b>Indexation</b>	Yes <sup>32</sup>
<b>Waiting / vesting periods</b>	None for state NC pension, 10 years state C pension, 5 years Occupational pension
<b>Based on collective agreement</b>	Yes

<sup>32</sup> Pensions Act (Amendment) 2001

<sup>33</sup> Pensions Act 1990 (2002 as amended)

## **Department of the Environment, Community & Local Government (DOE)**

The DOE has a very broad remit that includes responsibility for the pensions of the approximately 100,000 people employed by the local authorities, health service executives and other statutory bodies. It is also responsible for the approximately 30,000 beneficiaries of these pensions.<sup>34</sup> This pension scheme is known as the Local Government Superannuation Scheme (LGSS) and was set up under the Local Government (Superannuation) Act 1980. It is a defined benefit scheme. Benefits are taken as a tax free lump sum and a pension. In the main, the lump sum and pension accrue at the rate of 3/80ths and 1/80th, respectively, of pensionable pay for each year of service up to a maximum of 40 years. This means that the maximum lump sum is one and a half times' pensionable pay while the maximum pension is one half of pensionable pay. For fully insured employees, accrual rates are as follows:

- For pensionable pay up to 3 and 1/3rd times the rate of social welfare old age contributory pension - 1/200th of pensionable pay for each year of service and
- For pensionable pay in excess of 3 and 1/3rd times the rate of social welfare old age contributory pension - 1/80th of pensionable pay for each year of service.

LGSS is contributory on the part of employees.

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<sup>34</sup> [www.cso.ie/statistics](http://www.cso.ie/statistics) retrieved on 5.10.11 at 14:26

As of 1986 new employees pay a contribution of 6.5 % of pensionable pay with an adjustment to be made to pensionable pay when calculating part of the contribution due by fully insured employees. Death in service benefits, including where applicable, pensions for the spouse and/or eligible children of a member, are also payable. Pensions payable under the LGSS are generally increased in line with pay increases for public service employees. The LGSS is pay-as-you-go funded and is regulated by the Pensions Board.<sup>35</sup>

## **Department of Public Expenditure and Reform (DPER)**

Those civil servants who do not fall under the categories of the LGSS as outlined above are all under the responsibility of the DPER. This figure amounts to roughly 250,000 of Ireland's approximately 350,000 in employment in the public sector.<sup>36</sup> These people's pensions are governed by the Department through the blueprint set out in the Public Service Superannuation (Miscellaneous Provisions) Act 2004. They are also regulated by the Pensions Board. Members pay 6.5% contributions to this defined benefit scheme. This model scheme is pay-as-you-go funded and pension rates are indexed to current pay rates.<sup>37</sup>

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<sup>35</sup> [www.environ.ie](http://www.environ.ie) retrieved on 4.10.11 at 14:49

<sup>36</sup> [www.cso.ie/statistics](http://www.cso.ie/statistics) retrieved on 5.10.11 at 14:27

<sup>37</sup> <http://www.finance.gov.ie/> retrieved on 4.10.11 at 14:48

### 3 “Reality” of portability and occupational mobility Portability

#### National Portability

The general pension rules within Ireland are that employees that leave their job with less than two years service are refunded their pension contributions. This is suitable for facilitating portability among workers with short term contracts. Employees who leave after accruing in excess of two years service can either a) transfer their pension to another public sector body (if they have employment within the Irish public sector) or b) leave the funds with their previous employer until they qualify for retirement.

#### Occupational Pensions

If leaving a company pension plan with a preserved benefit the value of the benefit can be moved to:

The new employer’s pension plan,

1. A PRSA if there was less than 15 years’ service in the company pension plan and subject to its acceptance by the PRSA provider or
2. A buy-out bond, which is a life assurance policy designed to receive transfer values from company pension plans.

In a defined contribution plan, the value paid will be the encashment value of the investments held in the individual fund less any expenses authorised by the plan rules. Furthermore, a value is placed on the benefit payable from the company pension plan using a standard basis of calculations. This value can,

however, be reduced if the company pension plan from which it is being paid does not meet the minimum funding basis set out in the Pensions Act, 1990, as amended.

#### RACs

All RACs taken out after 6 April 1999, or earlier contracts where the insurance company agrees, can be transferred to another RAC. This transfer value can also be paid to a PRSA, by mutual agreement with the insurance company concerned.

#### PRSAs

The value of a PRSA can be transferred to:

1. Another PRSA or
2. A company pension plan

A PRSA provider cannot charge for this transfer.

#### International Portability

The Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations 2003 (S.I. 716 of 2003) contain the requirements that must be adhered to prior to an overseas transfer being effected under section 34(2) or 124(2) of the Pensions Acts. The following is a summary of those requirements:

1. The trustees or PRSA provider are required to obtain written confirmation from the trustees, custodians, managers or administrators of the overseas arrangement, to which the transfer is to be made, to the effect that the overseas arrangement provides „relevant benefits" within the meaning of section 770 (1) of the Taxes Consolidation Act, 1997, and



2. The trustees or PRSA provider must be satisfied that the overseas arrangement is approved by an appropriate regulatory authority for the country concerned, and

3. The trustees or PRSA provider of the Irish arrangement must obtain from the member of the arrangement or the PRSA contributor wishing to make the transfer such information as may be approved by the Pensions Board.

If the transfer is to another EU Member State, the overseas scheme must be operated or managed by an Institution for Occupational Retirement Provision (IORP), within the meaning of the EU pensions directive, and must be established in a member state of the EU/EEA which has implemented the directive in its national law. The scheme administrator must be resident in an EU Member State.

If the transfer is to a country outside the EU, a transfer may not be made to a country other than the one in which the member is currently employed.

Transfers that comply with the above may be made without prior approval from Revenue commissioners. When making a transfer payment, the amount that could be taken in lump sum form should be notified to the receiving scheme<sup>38</sup>

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<sup>38</sup> [www.pensionsboard.ie](http://www.pensionsboard.ie) retrieved on 4.10.11 at 14:51

#### 4 Challenges / trends / best practice

The position of Irish pensions remains serious. Current economic circumstances mean that pension savers and sponsoring employers have great difficulty in making the contributions necessary to make good the investment losses incurred in 2007-2009 and to meet the ever increasing costs of providing retirement benefits, whether through defined benefit or defined contribution arrangements. At the end of 2010 it was estimated that 75 % of all defined benefit schemes were in deficit. Therefore, the Pensions Board (the regulator of occupational pension in Ireland) has given an extension on their statutory deadlines for submission of funding proposals. All schemes are required to come up with a recovery plan to eliminate deficits and place the scheme on a stable footing. Defined contribution schemes are in similar difficulty and the trustees of these schemes, particularly the smaller schemes, need to stand by their obligations to their members to keep charges as low as possible and keep communications on investments regular and clear. Compliance is also a key issue for the Pensions Board and in 2010 and 2011 inspections on registered administrators increased greatly.<sup>39</sup> Overall the pensions industry in Ireland is making steady progress.

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<sup>39</sup> [http://www.pensionsboard.ie/en/Publications/Annual\\_Report/The\\_Pensions\\_Board\\_Annual\\_Report\\_and\\_Accounts\\_2010.pdf](http://www.pensionsboard.ie/en/Publications/Annual_Report/The_Pensions_Board_Annual_Report_and_Accounts_2010.pdf) retrieved on 22.6.12 at 10:15

## Executive summary

Already from (8 July) 1994 Dutch pension institutions, pension funds and insurance companies, (after: (pension) scheme(s)) are legally obliged to co-operate on (national) pension portability of the „cash equivalent transfer value”, requested by a (former) participant when his individual membership in a pension scheme ends, unless the financial position of the scheme is not solvent enough. This solvency means that a pension scheme only is allowed to co-operate on a „value transfer” when the transferring as well as the receiving pension scheme has at least a so-called „100%-funding ratio”. This „funding ratio” measures on base of market-value the relation between the pension entitlements and the assets.

Until 2007 the only statutory obliged value transfer in international context was the supra-national transfer to the ‘Pension Scheme of the European Union.

From 2007 the (new) Dutch Pension Act (DPA) came into effect. The DPA includes a number of sections that either mandate or allow pension portability in national as well as in international context under specific conditions.

## 1 General information

In the Netherlands (NL) there is a combination of the three pillars.

### The role of the first pillar

The Dutch first pillar consists of schemes for the entire employed or resident population, which are financed on the aforementioned „pay-as-you-go” base. The pension benefits are guaranteed by the State and the schemes are managed by the Dutch Social Insurance Bank.

The first pillar schemes principally intend to cover certain situations that render it impossible for the person concerned or his dependant to earn own income; therefore related to situations of old age; death and incapacity to work.

### The role of the second pillar

The (most important) second pillar consists of the collective pension schemes.

If a pension commitment on old age pension, dependants pension and disability pension (usually in combination with social security), is given by an employer to employees the DPA provides legal rules. A supplementary pension scheme must be in line with the Dutch pension and fiscal legislation.

The DPA obliges that the pension commitment must be implemented by specific a pension institution, namely:

- An industry-wide (sector) pension fund: this fund implements a usually compulsory scheme for a specific sector, such as: public and educational sector; health care sector; metal industry sector.
- An occupational pension fund: this fund implements a compulsory scheme for people employed in a particular occupation,

such as civil-law notaries, medical specialists.

- A company pension fund: this fund is affiliated to a single company or a conglomeration of enterprises.
- A life insurance company: in case the employer asks an insurance company to implement a scheme for his employees.

Industry-wide (sector) pension funds can be made compulsory for the entire sector. A single, standard premium must apply and no impediments can be put in place to restrict employees from participating in the pension scheme.

Risk sharing, cost-efficiency and collectiveness are the key characteristics of the Dutch second pillar. These second pillar schemes are set up by an employer for his employees or as a result of a collective agreement between

employers and unions (social partners).

The second pillar pension schemes must be funded, so the pensions are financed by the contributions of employers and scheme-members whose contributions are invested.

Pension funds are independent legal entities which operate mostly as foundations and do not form a part of a company or branch of companies. A pension fund is therefore an independent financial institution. Pension accrual is linked to an employment relationship, forming part of the terms of employment agreed between social partners and are generally supplementary to the basic schemes.

The mandatory nature ensures cost efficiency of large schemes.

In addition, employees can change jobs more easily within an industry-wide sector, because they continue their scheme-participation.

#### **Some facts and figures about the Dutch first and second pillar-schemes**

The basic first pillar basic schemes by the state cover each resident or each employee. They are intended to cover illness/incapacity for work, old age, death.

Regarding the second pillar more than 90 % of Dutch employees have a pension provision throughout their employment. 75 % of all employees are members in an industry-wide pension fund.

#### **The role of the third pillar**

The Dutch third pillar consists of individual schemes, which generally take the form of contracts with life insurance companies or other financial institutions.

## 2 Detailed information

The Netherlands (ABP) (public and educational sector)	Description
Type	Defined Benefit-scheme; average pay
Benefit (sort of pensions, what is insured)	Old-age Disability Survivors
Financing	Funded
Indexation	Yes, if the financial situation of the pension institution makes an indexation possible. Indexation concerns the pensions and the eligibilities
Waiting / vesting periods	No vesting periods No waiting periods No minimum age
Based on collective agreement	Yes

### The ABP Scheme

The ABP Pension Fund Foundation (ABP-scheme) is the pension fund of employers and employees of the Dutch public and educational sector. Therefore the ABP-pension regulation is the pension scheme for the employees of e.g. the state, provinces, municipalities, district water boards, defence, educational sector from basic schools up to and including universities as well as for the employees of several private law institutions which are linked to the state, such as the energy sector companies of public service, airports, museums, orchestras.

The ABP-scheme is a fully funded DB-plan with an additional DC-plan.

### Portability legislation

#### National Portability

Based on the DPA a pension fund is obliged to co-operate if a (former) member of a pension scheme within six months after the beginning of a new membership requests for a national value transfer of his accrued pension benefits. After six months of the start of the scheme-participation the fund has a discretionary power to co-operate. Base on a CETV the new scheme gives the member a „pension entitlement-offer” based on which the member can decide if his request for the pension transfer is to be proceeded.

## International Portability

According to the DPA, the pension scheme is under (almost) the same conditions, obliged to co-operate on an international value transfer / portability to:

- „Pension-paying institution in another Member State of the European Union or European Economic Area”<sup>40</sup>;
- „Insurer seated outside the Netherlands”<sup>41</sup>
- „Designated Institution”; designated on base of a DPA-based „Ministerial Order”<sup>42</sup>
- „Pension Scheme of the European Union Institutions” (abbreviated: PSEUI).

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<sup>40</sup> A pension-paying institution in another Member State of the European Union or European Economic Area is understood to mean: A fully funded institution, regardless of its legal form, that has its registered office in a Member State other than the Netherlands and has been constituted as an entity independent of any contributing enterprise or business sector, having as its aim the payment of employment-related pension benefits under an agreement concluded:

- individually or collectively between one or more employers and one or more employees or their respective representatives; or
- with self-employed persons and pursuing activities that are directly related thereto

This definition is based on European legislation / Occupational Retirement Provision Directive [2003/41/EC].

<sup>41</sup> An insurer with registered office outside the Netherlands is understood to mean an insurer who is qualified under Dutch legislation to conclude pension insurance arrangements within or into NL.

<sup>42</sup> Examples of „Designated Institutions”: European Central Bank, European Patent Organisation, Council of Europe, World Trade Organisation, United Nations, NATO.

The pension scheme has, under (almost) the same conditions as for national portability, a discretionary-power to co-operate on a portability to:

- „**Foreign Institution**”, being an institution seated outside the Netherlands and not being an institution to which a international value transfer is mandatory. Generally speaking these institutions are „foreign institutions” seated outside the European Union.

Regarding an obliged portability from a Dutch scheme (after ending the Dutch scheme-participation) towards an aforementioned „pension-paying Institution in another Member State” or an „Insurance Company seated outside NL” the following DPA-conditions -in short and as far as relevant- are to be fulfilled:

- Direct value transfer from (NL) scheme to (foreign) scheme to attain pension entitlements (without costs);
- The partner who is eligible to dependants entitlements agrees with the transfer;
- A possibility in the foreign scheme to buy off Dutch pension value is not to exceed the very small „buy off-limit” the DPA in NL allows; namely € 438,44 (amount 2012) gross on yearly base. This means that Dutch pension capital in fact is not to be bought off or commuted.

Regarding an obliged portability from a Dutch scheme (after ending the Dutch scheme-

participation) towards the aforementioned „Designated Institution” the same DPA-conditions as for the „Pension-paying Institution in another Member State” or an „insurance company seated outside NL” apply mutatis mutandis, except for the commutation- / buy off-condition.

Regarding a discretionary portability from a Dutch scheme (after ending the Dutch scheme-participation) towards the aforementioned other „Foreign Institution” the same DPA-conditions as for the „Pension-paying Institution in another Member State” or an „Insurance Company seated outside NL” apply mutatis mutandis, with the following -in short and as far as relevant- additional DPA-conditions:

- The scheme of the foreign employer is subject to foreign government supervision;
- The scheme and employer are legally separated.

### **Fiscal legislation**

According to the Dutch Wages and Salaries Tax Act the basic rule is that a value transfer is treated for tax purposes like a commutation of a pension, which constitutes grounds for levying wage tax on the transfer value. An international value transfer in the context of an acceptance of employment outside NL does not entail fiscal consequences, however certain fiscal conditions must then be satisfied. An important aspect of untaxed value transfer is that the Tax and Customs Administration (For-

oreign Country Office) does impose a protective assessment or exit levy. If it transpires, after the value has been transferred, that the stipulated fiscal conditions have not been fully satisfied, then the Tax and Customs Administration can recover the tax due by means of this assessment. Dutch tax law enables a value transfer to be effected without a Dutch tax levy being imposed, but the Tax and Customs Administration has to verify the content of the fiscal conditions and take a formal decision. In addition, the transferring (Dutch) pension administrator must be relieved of liability in the event of a tax claim by the Tax and Customs Administration. This is only possible if:

- The foreign pension administrator states towards the Tax and Customs Administration that it is assuming this liability; or
- The employee submitting the value transfer request declares to the Tax and Customs Administration that he is providing sufficient certainty.

If the Tax and Customs Administration does not give its consent, the transferring pension administrator cannot co-operate in an untaxed value transfer.

The aforementioned conditions can be met as follows; the Tax and Customs Administration can sign an agreement with the receiving pension-paying institution in which the latter assumes liability for the tax and revision interest payable by the employee with pension entitlements. For this purpose the foreign pen-

sion administrator must assume, in writing, liability for the protective assessment vis-à-vis the Tax and Customs Administration, and accept post-transfer fiscal liability (under the Collection of State Tax Act).

Alternatively, the employee himself may provide sufficient certainty to the Tax and Customs Administration.

If the receiving institution and the employee fail to co-operate in this, the Dutch pension administrator may be faced with the consequences of a protective assessment, even years after the value transfer has been affected. The Dutch pension administrator is not willing to bear liability for a protective or other tax assessment after an international value transfer had been affected. Therefore the Dutch pension administrator wants a formal confirmation of the Tax and Customs Administration regarding its relief of fiscal liability under the Dutch fiscal regulation.

### **3 „Reality” of portability and occupational mobility**

#### **National Portability**

The Dutch legal framework allows under conditions (national) portability. The Dutch schemes have to be in line with the pension and fiscal legislation and are under the scope of the Dutch pension supervisors.

#### **International (outbound) Portability**

Portability in international context is in practice realised towards the Pension Scheme of the European Union Institutions and the (designated) international organisations. International (outbound) portability towards foreign pension schemes is almost not realised due to the strict pension and fiscal conditions on outbound pension transfer, such as:

#### **Non-commutation:**

The aforementioned DPA-condition that „the options for commutation of the transferred Dutch pension value may not be more liberal than the DPA allows” is mostly a „breaking” point. Due to the many and varied more liberal buy-off options in other countries it is almost not possible to fulfil this non-commutation requirement.

#### **Fiscal aspects:**

Because Dutch pension benefits are fiscally facilitated Dutch Tax Authority has a claim on pension payments and provides after emigration or international transfer a so-called „preserved tax assessment” to the person involved in case Dutch pension entitlements might be bought off. For such a tax assessment the Dutch scheme can be held liable. Due to the aforementioned fiscal conditions the Tax Authority has to verify the content of the fiscal conditions about the relief of the fiscal liability for the Dutch pension administrators; the Dutch administrators want relief of the fiscal liability as foreign pension administrators (normally) do not want to accept Dutch fiscal liability.

### International (inbound) portability

The obligation respectively the discretionary power to co-operate on inbound portability regards the same aforementioned foreign pension institutions / international organisations to which outbound portability is obliged or allowed.

The following (low-profile) pension and fiscal conditions -in short and as far as relevant- are to be fulfilled:

- Direct value transfer from (foreign) scheme to Dutch scheme to attain pension entitlements (without costs);
- The partner who is eligible to dependants entitlements agrees with the transfer;
- No foreign requirements that may be in disagreement with the DPA.
- The pension member does not make any premium deductions on his taxable income.
- Most of the inbound portability is realised from UK schemes, because most of the Dutch pension schemes are recognised by the British (fiscal) supervisor „HM Revenue and Customs” as a so-called „Qualifying Recognised Overseas Pension Scheme” (QROPS); as long as this qualification is in line with UK legislation, which British legislation / regulation of course may undergo modifications at all times

### 4 Challenges / trends / best practice

To inform participants sufficiently about international portability the Dutch pension associations developed a so-called „Guide and Questionnaires” in Dutch and English in which the Dutch legal portability conditions in international context are „translated into questions”. This „Guide and Questionnaires” can be downloaded from the Dutch pension association-site: [www.pensioenfederatie.nl](http://www.pensioenfederatie.nl).

The three Questionnaires pertain to the following international transfer situations:

- Pension value transfer within the European Union;
- Pension value transfer to a „Designated Institution”;
- Pension value transfer outside the European Union.

International mobility of employees increases moreover, especially within the EU. Therefore requests for pension portability will increase, particularly among „mobile” personnel of for instance universities and multinationals. A general acceptance that pension capital is accrued for regular income after retirement and therefore should not be bought off would stimulate the pension portability. This in combination with the acceptance that if nevertheless commutation before or on the regular pension age would occur the source-state



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should have tax-allowance, because it granted after all the fiscal facilitation of the accrual of pension entitlements.

Furthermore and for the sake of completeness it is explicitly noted that transferability of pension benefits is of course only possible between funded pension schemes.

## Executive summary

The Norwegian pension system is – like in many other European countries – a three pillar based construction. Over the last decade it has been, and is still undergoing a fundamental

reform that includes all three levels. The main driver for the reform has been to help the government deal with increasing longevity and rising pension fund costs: forming a new „sustainable pension system“.

Norway (KLP)	Description
<b>Type</b>	Defined Benefit Final pay Comprehensive system; 66 % of second and first pillar included
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors Others: Partial Pension
<b>Financing</b>	DB: fully funded at all times (first pillar PAYG)
<b>Indexation</b>	Yes
<b>Waiting / vesting periods</b>	No waiting periods Vesting period only in old-age benefit No Minimum age
<b>Based on collective agreement</b>	Yes, tariff-based with prerogative from the social partners

KLP - Kommunal Landspensjonskasse - is Norway's largest life insurance company. KLP is the leading provider of occupational pensions to the public sector and associated organizations. The customers are in the local government sector and the state health enterprises as well as to businesses both in the public and the private sectors. The pension scheme covers 310,000 occupationally active

members, over 170,000 pensioners and nearly 130,000 deferred entitlements.

Main business areas are Pension, Banking, Fund and Asset Management, Non-life Insurance and Property. The mutual parent company, with head office in Oslo, and its wholly owned subsidiaries together have about 800 employees. Total assets as at 31.12.2011 was

NOK 292 bn. The KLP Group capital adequacy ratio was 10,9 %.

The Company's Board of Directors is elected by a Supervisory Board composed of representatives of the owners. The public sector employee organisations are represented in the company's governance bodies.

## 1 General information

The first pillar is a „pay-as-you-go” National pension. On January 1, 2011, a new government pension system replaced the original system since 1967. People born 1953 or earlier will accrue rights according to the old regime, whereas those borne 1963 or later will relate only to the new system. The cohorts between 1954 and 1962 will relate to both regimes.

The second pillar includes collective pension schemes in the public as well as the private sector. The public sector has a tariff based product generally based on the same matrix for all employees. It is a DB retirement scheme, also with disability rights, benefits for surviving spouse and children's pension. The Norwegian Public Service Pension Fund (Statens Pensjonskasse) is basically non-funded: payments are made over the fiscal budget. With other providers, like KLP, the accrued pension rights are fully funded and reserved for. The private sector occupational pension schemes are historically DB based. But since 2002, DC

schemes were introduced and are gaining ground, although more than 90 percent of the financial reserves are still attached to DB entitlements. From 2006, all employers in Norway are required to provide an occupational pension (a mandatory occupational pension with minimum tariffs) for their employees. The vast majority of such new pensions are DC based with fairly small annual contributions.

There are also Contractual Early Retirement Pension Plans (AFP) from age 62 if certain criteria are met under the work period before retirement. In the public sector the AFP is integrated in the collective agreement. In the private sector a little more than half of the workplaces have AFP rights.

The third pillar pensions are meant for individuals to make contributions under an arrangement they themselves make with an insurance company or an authorized financial institution. Contributions are typically invested during an individual's working life, and then used to purchase a pension at or following retirement. Typically Unit Linked products are offered in the market. The levels of tax deduction have been reduced during recent years.

## 2 Some cornerstones of the changes to the new National insurance system

- The original so called „point-based system” using the best 20 years of earnings (full rights require 40 years of income) for computing benefit levels will be discontinued and replaced by a career-average plan based on allocations of 18.1 % of the annual income up to a maximum of 7.1 times the national insurance basic amount, known as „G”. (1 G = 82.122 NOK since May 2012). Retirement rights are accrued between 13 and 75 years of age.
- The retirement age has changed from a fixed age of 67 to a flexible retirement age available at age 62, but only if adequate pension entitlements have been accrued; otherwise the fixed age of 67 applies.
- Each year, pensioners can opt to draw 0, 20, 40, 50, 60, 80 or 100 percent of their benefit entitlement - also postponing until at latest the age of 75.
- To reflect increasing life expectancy, the level of pension payable is recalculated based on a life expectancy index figure.
- Partial retirement, which allows continuation of work, is permitted with no reduction in pension.
- As of 1 January, 2011, indexation of pension in payments will be reduced from being in line with wage growth to being in line with wage growth minus 0.75 per cent per annum.

## 3 Implications for occupational pensions

Occupational pensions in Norway - especially DB rights in the public sector, but also DB and DC private sector schemes - are integrated with the national insurance plan to provide an overall target benefit. Changes to the national insurance legislation have therefore had a potential impact on these occupational pension plans. In 2010 the Norwegian Banking Law Commission proposed that, because of the complexity of the changes needed to adapt the DB occupational pension structures to the new state system, DB plans should - as a temporary measure - operate largely according to current benefit formulas until modifications and alternatives to DB and insurance-based plans are implemented in the insurance legislation.

In the interim, the Banking Law Commission also proposed a draft new act (NOU 2010:6) allowing more flexible access to old-age retirement benefits. The mandate was limited to private sector products. These initial changes, along with necessary changes for defined contribution plans (for which the necessary adaptations are more straight forward), passed parliament for introduction January 2011.

After a report on paid-up policies and capital requirements (NOU 2012:3) with drafts on new amendments to the pension acts (re. Solvency II requirements and very low long-lasting global interest rate perspectives that do not match

guaranteed returns on pension plans), the Banking Law Commission in June introduced to the Ministry of Finance NOU 2012:13 the „Pension Acts and National Insurance Reform II”, containing a draft of a new act on collective service-pension insurance in the private sector. The two alternative retirement pension products are so called „hybrids”; neither DB, nor DC schemes. Based on annual premiums as a limited percentage of salary accumulating a growing pension stock, they are not final-salary based, but reflect an ambition to equal the pension level as two thirds of final salary after some forty years of employment. A variety of value adjustment alternatives for accrued capital and pension under payment are introduced:

- The use of longevity adjustment and of gender- and age-neutral apportionment figures are mandatory. The pension shall as a main rule be lifelong and be paid until the member dies, but with certain shorter alternative options.
- As phase III of the work on adaptation of the pension acts to the National insurance reform the Banking Law Commission will prepare a report that deals with the questions related to the connection of existing pension schemes and new service-pension schemes and what transitional rules and transitional periods that are necessary before a final adaptation to the new National insurance system is in place. It will also discuss what ought to be done with the

existing company pensions acts plus amendments to other acts. According to the Banking Law Commission administration, it aims at completing a report on phase III in the winter of 2013. It is an ambition that all new acts can pass Parliament late 2013 and be implemented by 2014.

#### **4 „Reality” of portability and occupational mobility**

At present, there are practically no cross-border options for transferring accrued occupational pension rights from or out of Norway during the vesting period. Assumingly, or apparently, this is closely linked with the taxation regime and tax exempt of premiums and portfolios. The portability within Norway, though, is very liberal both on a collective and individual basis.

Pensions under payment from both the National pension and occupational schemes may be transferred abroad, under a set of financial conditions and regulations.

## Executive summary

Introduced in 1999 the Swedish public social insurance pension scheme consists of three parts:

- Income pension, a notional defined-contribution system (NDC)
- Premium pension, a fully funded, mandatory DC scheme, and
- Guarantee pension, a minimum defined benefit pension financed from general taxes

In the NDC and DC part of scheme, all income earned, up to a certain ceiling, influences the pensions. The contribution rate is permanently fixed at 18,5 % of the gross wage, up to a ceiling. 16 percentage points finance the pensions on the pay-as-you-go basis through the mechanism of notional accounts (income pension) and 2,5 percentage points are invested in one or more funds selected by the individual (premium pension). The NDC of the scheme is normally wage indexed.

In addition to wage from regular employment, income from self-employment, benefits for sickness, disability and unemployment are considered as income in the pension system. Studies (with national study assistance) and years with children up to four years of age are also credited.

The public pension system is supplemented by sector-wide occupational pension schemes.

If the income pension is too low – because of low wages or little number of working years – a guarantee pension supplements the pension. In addition, there is a housing supplement for pensioners with low pensions and high housing costs. The guarantee pension is consumer price indexed. To receive a full guarantee pension, a person must have lived in Sweden or in another EU/EES country for 40 years.

Occupational pension, complement the pensions from the social insurance system for most people in Sweden. More than 90 % of employees are covered by occupational pensions established by collective agreements. Separate schemes cover white and blue collar workers in the private sector and those that are employed in the state sector or in municipalities and counties. All four schemes have moved from DB to DC designs for new entrants. The schemes in the private sector are entirely DC-plans, but most white collar workers in the private sector currently employed will get a pension according to an earlier DB plan. The occupational pension schemes for public sector employees are DC plans up to the income ceiling in the social insurance pension system, and for income above that ceiling a combination of DB and DC plans. Contributions are tax deductible as long as certain conditions are met. Last, there are three different forms of personal pensions; traditional insurance, fund insurance and an individual pension saving in a bank. Contributions are tax deductible as long as certain conditions are met.

## 1 General information

Since 1999, Sweden has a new pension system that is applicable to everyone born in or after 1954.

The earliest one can retire is at age 61 and the latest at 67. The earlier one retires the lower the pension will be and vice versa (private pensions can generally be withdrawn from the age of 55). Occupational and private pensions are all supervised by the Swedish Financial Supervisory Authority.

### First pillar

There are three aspects to the national pension: guarantee pension, income pension and premium pension. Guarantee pension is based entirely on residence and is a means of giving everyone a minimum standard of income in their old age. One is entitled to it if having lived for at least three years in Sweden and having had no income or only a low income. In order to get a full guaranteed pension one must have lived in Sweden for 40 years. If one has lived in Sweden shorter than that, the guaranteed pension will be lower. The elderly can also receive housing supplements or maintenance support. The guarantee pension is funded by the state

budget. For everyone else who has had any significant employment there is the income pension and the premium pension. Every year each individual sets aside 18.5 % of salary and other taxable benefits for their national pension. 16 % of this goes to the income pension where the values of the pension benefits follow the earning trends in Sweden. The remaining 2.5 % go to the premium pension where it is up to the individual themselves to invest the money as they so wish.<sup>43</sup>

### Second pillar

The earnings based pension is an additional insurance based on gainful employment. This is open to both the employed and the self-employed. The private sector has mostly defined contribution pensions and the public sector have both defined benefit and defined contribution pensions. The collective agreement between trade unions and employers requires employers to provide their employees with an occupational pension.

### Third pillar

A private savings pension gives additional retirement cover. This is basically like a secure, long-term savings account to provide extra protection for retirement.

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<sup>43</sup> <http://www.pensionsmyndigheten.se/3692.html>  
retrieved on 13.1.12 at 14:01

### **Some facts and figures about the Swedish first, second and third pillar**

As of November 2011 Sweden has a labour force of ca. 4,693,000.<sup>44</sup> The national pension applies to all of the 4,693,000 labour force in Sweden (figure of November 2011).

#### Second Pillar:

More than 90 % of Swedish employees have an occupational pension.<sup>45</sup>

Second pillar pensions in Sweden are to a great extent administered by life-insurance companies.

There are four main occupational pensions established by collective agreements:

- SAF-LO (private sector, blue collar workers)
- ITP (private sector, white collar workers)
- KAP-KL (employees in municipalities and counties)
- PA-03 (employees in the state sector)

#### Third Pillar

ca. 40 % of workers in Sweden have a private pension or private savings.

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<sup>44</sup> [http://www.scb.se/Pages/FigureList\\_4000.aspx](http://www.scb.se/Pages/FigureList_4000.aspx) retrieved on 19.1.12 at 13:47

<sup>45</sup> [http://www.kpa.se/mallar/Engelska/SidaUtanNav\\_1024.aspx](http://www.kpa.se/mallar/Engelska/SidaUtanNav_1024.aspx) retrieved on 13.1.12 at 13:36



## 2 Detailed information of EAPSPI member KPA

Sweden (KPA) Municipalities and counties	Description
<b>Type</b>	First tier DC Second tier DB (final pay)
<b>Benefit (sort of pensions, what is insured)</b>	Old-age No Disability Survivors
<b>Financing</b>	1 tier (DC) mandatory funded 2 tier (DB) voluntary funded
<b>Indexation</b>	1 tier (DC): Yes with the return of the assets. 2 tier (DB): mandatory indexed.
<b>Waiting / vesting periods</b>	No vesting periods No waiting periods Minimum age: 1 tier (DC): 21 years 2 tier (DB): 28 years
<b>Based on collective agreement</b>	Yes (KAP/KL)

### Scheme features KPA (pensions in municipalities and counties)

#### Old age pension

KPA deals with the earnings based pensions of employees in municipalities and counties in Sweden. This is an occupational pension based on a collective agreement between trade unions and employers and is called, KAP-KL.

The employer pays a monthly contribution of 4.5% of the employee's gross salary. The employee uses the 4.5 % to choose between

traditional or unit-linked insurance. With traditional insurance the company selects where the pension is invested. It is low risk with a guaranteed minimum return. Alternatively, with unit-linked insurance the individual can select where to invest their pension themselves. The value of the investment can rise or fall depending on the market. It is therefore less secure than the traditional insurance but potentially more lucrative. If no choice is made then KPA will invest the pension in traditional insurance with repayment protection. There is the option to choose either way once a year. There is a

list of the different companies one can invest with on the Pensions valets website (including information on the company and information on their funds and administration fees) and on the selection form. This pension is earned from the age of 21 and is defined-contribution. It is normally paid out from the age of 65.

The defined-benefit pension is earned from the age of 28 by all those who earn over 7.5 income base amounts i.e. € 45,000 p.a.

One must work for 30 years in order to receive the maximum pension but pension rights are accrued from day one. This pension is normally paid out from the age of 65.

#### **Survivors' pension**

The survivors' pension has two different benefits:

- A survivor's pension paid to an adult
- A children's pension

### **3 Detailed information of EAPSPI member SPV**

<b>Sweden (SPV) State employees</b>	<b>Description</b>
<b>Type</b>	Hybrid: First tier DC Second tier DB (final pay)
<b>Benefit (sort of pensions, what is insured)</b>	Old-age Disability Survivors Others: Partial Pension
<b>Financing</b>	DC: mandatory funded DB: not funded
<b>Indexation</b>	First tier (DC): Yes with the return of the assets. Second tier (DB): no indexation.
<b>Waiting / vesting periods</b>	No vesting periods No waiting periods Minimum age: First tier (DC): 23 years (for old age pension) 18 years for disability and survivors pension Second tier (DB): 23 years
<b>Based on collective agreement</b>	Yes (PA '03)

### **Scheme Features SPV**

The National Government Employee Pensions Board (SPV) was established in 1963 and is today one of Sweden's largest providers of pension administration. SPV is responsible for administrating the governmental occupational pension for over 500 000 employees and pensioners and 400 employers.

The mission of SPV is also to calculate pension premiums and to deliver forecasts and statistics to the government. SPV's goal is to be the obvious choice as the administrator of the state occupational pension. SPV pays about 290 000 pensions each month at an annual value of 12,5 bn SEK. SPV is located in Sundsvall and has approximately 300 employees.

### **Old-age pension**

SPV deals with the earnings based pensions of state employees in Sweden. This is an occupational pension based on a collective agreement between trade unions and employers and is called „Occupational Pensions Agreement PA 03”.

The employer pays a monthly contribution of 4.5 % of the employee's gross salary. However this is split into 2 % and 2.5 %. The 2 % is a supplementary pension called Kåpan Tjänste. Kåpan Tjänste is a traditional pension insurance with a guaranteed interest rate and is normally paid over a period of five years from the age of 65. The employee uses the 2.5 %, Kåpan Retirement Pension, to choose between

traditional or unit-linked insurance. With traditional insurance the company selects where the pension is invested. It is low risk with a guaranteed minimum return. Alternatively, with unit-linked insurance the individual can select where to invest their pension themselves. The value of the investment can rise or fall depending on the market. It is therefore less secure than the traditional insurance but potentially more lucrative. If no choice is made then Kåpan pensioners will invest the pension in traditional insurance with repayment protection. The money will initially be placed in an „entrance solution” until a fund is chosen to invest in. There is the option to choose either way once a year. There is a list of the different companies one can invest in on the SPV website (including information on the company and information on their funds and administration fees) and on the selection form. This pension is earned from the age of 23 and is defined-contribution. It is normally paid out at the age of 65.

The defined-benefit pension is earned from the age of 28 by all those who earn over 7.5 income base amounts i.e. € 45,000 p.a. One must work for 30 years in order to receive the maximum pension but pension rights are accrued from day one. It is a final salary pension, which is the average salary of the annual salaries for the last 5 years prior to the year of retirement. This pension is normally paid out from the age of 65.

### **Dependants Cover**

„Repayment Protection” is a form of survivors and dependants cover. However, this lowers the level of the pension, although one can choose to opt out if they like. Depending on the insurance company one can also choose to opt back in at a later date. Terms and conditions for this vary from provider to provider.

In any case, the very fact of being in employment gives the employee the entitlement to a survivor’s pension and employment group life insurance for surviving dependants.

Survivor’s pension will be paid out over six years to a husband, wife, registered partner or cohabitant. Survivor’s pension for children is paid out up to the month in which the child attains the age of 20.

The Government Service Group Life Insurance comprise of a principal sum, a child sum and funeral assistance. The amount of the principal sum depends on working hours and age of the employee at the time of death. The amount of the child sum depends upon the working hours of the employee and the age of the child. 22,000 Swedish crowns (i.e. € 2,400) is paid as funeral assistance.

### **Disability / Incapacity**

The collective agreement „PA 03” has also a disability and incapacity cover. There are two types of disability cover, permanent and temporary. Both depend on whether the insurance company grants the person permanent or temporary disability or sickness status by virtue of

getting disability/sickness compensation from Forsakringskassan.

### **Tax Relief**

As the payer of pensions, SPV is regarded either as the principal employer or subsidiary employer. The principal employer is the person who pays the employee their highest income. The principal employer must deduct tax in accordance with the tax table that applies to the employee and also make an additional tax deduction at their request. A subsidiary employer makes a tax deduction of 30 %. It is stated on the specification in January whether SPV deducts tax as a principal employer or as a payer of additional income. The employee must personally check and notify SPV if they want them to deduct higher tax from their pension. This means that depending on what status SPV takes, their pension may qualify for a 30 % tax deduction.

## **4 „Reality” of portability and occupational mobility**

### **International Portability**

Transfers of occupational pension rights to other countries are not possible.

### **Reality of Portability**

Pension rights can only be transferred according to the Staff Regulations of Officials of the European Communities (Annex VIII, Article 11). Other transfers are not allowed.

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## 5 Challenges / trends / best practice

In Sweden, the social partners have formulated some key elements to portability of pensions: In order for occupational pension schemes not to constitute an obstacle to the mobility of labour the following is required:

1. Acquired pension rights must not be violated or deteriorated.
2. All supplementary pension rights shall be treated equally irrespective of whether the individual concerned is still part of the pension scheme or has left the scheme due to the termination of his or her employment.

This country survey about the United Kingdom contains information about the schemes of the EAPSPI Members in England, Wales, Scotland and Northern Ireland and applies to Teachers, NHS staff and Local Government. These Schemes operate a transfer Club which has in effect been operating since the late 1950's.

## Executive summary

Legislation was introduced in 1986 about full portability in the United Kingdom. Since then members of the schemes mentioned above have a statutory right to transfer benefits both with and without the Club. This right covers the transfer of the cash equivalent capital value of their accrued pension rights at the point of transfer (CETV) within the United Kingdom and overseas (which means worldwide).

Based on the legal rules there are nowadays transfer arrangements between different institutions in the UK. These transfer arrangements extend to personal pensions, self invested personal pension schemes, small self administered pension schemes, pensions in draw-down. Also QROPS (Qualified Recognized Overseas Pension Scheme), AVCs (Additional Voluntary Contributions) and occupational schemes are covered by these transfer arrangements.

## 1 General information

Pensions in the United Kingdom can be separated into three pillars:

### First pillar

The first pillar (the state pensions) divides into three pensions: the basic pension, additional pension, and pension credit.

The basic pension, known as the Basic State Pension, is a contribution-based pension system and depends on each individual National Insurance contributions, payable at the personal state pension age (SPA). State Pension age for women will be equalised with that of men between 2010 and 2018, and raised for both men and women by 2020 to age 66 (from age 65). In the longer term, State Pension age will be increased further (to age 68 or beyond based on evidence of life expectancy moving away from the original aim of only moving to age 68 by 2046.<sup>46</sup> The number of qualifying years needed for a full basic State Pension depends on the age and sex of the individuals.<sup>47</sup>

The additional first pillar pension provides extra pensions over and above the UK Basic State Pension and is only available to employees

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<sup>46</sup> National Strategy Report on Social Protection and Social Inclusion 2008-2010 - United Kingdom (2008), p. 51, <http://ec.europa.eu/social/BlobServlet?docId=2568&langId=en>

<sup>47</sup> See Qualifying for State Pensions: [http://www.direct.gov.uk/en/Pensionsandretirementplanning/StatePension/DG\\_10014671](http://www.direct.gov.uk/en/Pensionsandretirementplanning/StatePension/DG_10014671) retrieved on 20.8.12 at 10:32

being insured in the National insurance and to certain exempted groups is also a cross-over into the second pillar. The State Second Pension, introduced in 2002, was a development revision of SERPS (State Earnings Related Pension Scheme) first introduced in 1975/76. People may be contributing to or receiving credits towards the additional State Pension if they are below State Pension age and are<sup>48</sup>:

- Employed and earning over £ 5,564 (from any one job)
- Looking after children under twelve years old and claiming Child Benefit
- Caring for a sick or disabled person for more than 20 hours a week and claiming Carer's Credit
- A registered foster carer and claiming Carer's Credit
- Receiving certain other benefits due to illness or disability.

Many employers provided their employees with a pension that was 'contracted out' of the additional State Pension, so that this occupational pension scheme offered benefits at least as good as that provided by the State's second pillar. If employees left such a contracted out pension scheme they could, at point of departure, buy back in to the State second pillar or transfer their rights to another contracted out scheme. The last 10-15 years have seen a substantial reduction in private sector provision of contracted out pension schemes and for the

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<sup>48</sup> [http://www.direct.gov.uk/en/Pensionsand\\_retirement\\_planning/StatePension/AdditionalStatePension/DG\\_4017827](http://www.direct.gov.uk/en/Pensionsand_retirement_planning/StatePension/AdditionalStatePension/DG_4017827) retrieved on 20.8.12 at 10:32

most part it is only those public service pension scheme which still offer access to a contracted out pension scheme to all employees. Which means they are unlikely to be contributing towards the additional State Pension. They can choose to leave the additional State Pension and join a private pension instead.

The third part of the first pillar is the pension credit, an income related benefit for pensioners living in Great Britain. The amount of Pension Credit depends on how much income or savings the individual has.<sup>49</sup>

### **Second pillar**

The second pillar (in effect schemes which have contracted out of SERPS or the State Second Pension) is the occupational pension system which contains supplementary pensions and in relation to EAPSPI members in the UK provide for

- active members
- deferred members
- pensioners

After the Pension Act 2008<sup>50</sup> the employer must make prescribed arrangements by which jobholder (22 up to pensionable age) become active member of an automatic enrolment scheme unless they decide to opt out. This scheme can also be the new non-departmental

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<sup>49</sup> [http://www.direct.gov.uk/en/Pensionsandretirement\\_planning/PensionCredit/DG\\_10018692](http://www.direct.gov.uk/en/Pensionsandretirement_planning/PensionCredit/DG_10018692) retrieved on 20.8.12 at 10:32

<sup>50</sup> <http://www.legislation.gov.uk/ukpga/2008/30/contents> retrieved on 20.8.12 at 10:32

trust fund called „National Employment Saving Trust”.

Most public service schemes, and in particular the one covering local government, have been operating auto enrolment since 1991, and similar provisions are being extended across the private sector but on a much lower defined contributions basis.

Historically pension schemes sponsored by employers were mostly „defined-benefit” or „final salary” plans. In the last years, the employers in the private sector offer more and more „defined contribution” plans, where the burden of risk is transferred to the employee.

Employees can also make AVCs (Additional Voluntary Contributions) to the occupational

pension scheme, which in effect are bridges into the third pillar.

### **Third pillar**

The third pillar contains the Personal Pension Schemes (PPS) which are tax-privileged individual investment vehicles to build up a capital sum to provide retirement benefits. Personal pensions are available from banks, building societies and life insurance companies. There are Self-Invested Personal Pension (SIPP) and Stakeholder Pension Plans in the PPS. In SIPP the individual can choose, what assets are bought, leased or sold, and decide when those assets are acquired or disposed of. Stakeholder Pension Plans have to meet certain standards to ensure flexibility and have a limit on annual management charges.

### **Some facts and figures about the UK first, second and third pillar**

First Pillar (State Pension):<sup>51</sup>

In the United Kingdom the public expenditure on old-age and survivors benefits in 2007 were 5.4 % of GDP and 12 % of total government spending.. In 2011 there were 12 mn people in the state pension age or older which parallels 31 % of working age population.

Second and Third Pillar:<sup>52</sup>

More than 60 % of pensioners receive an occupational pension and 16 % receive a personal pension. There are about 53,800 occupational pension schemes of whom 310 are part of the public sector.

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<sup>51</sup> OECD, Pensions at a Glance 2011, Part II, Demographic pressures and public pension expenditure & Public expenditure on old-age and survivors benefits & Gross and net public pension expenditure; Pensions Policy Institute, Pension Facts September 2012, Table 1.

<sup>52</sup> Pensions Policy Institute, Pension Facts September 2012, Table 15 and Table 19,



## 2 Detailed information

United Kingdom LGPS (England, Wales and Northern Ireland) SPPA (Scotland)		Description
Type	DB	Average pay [only for GP's/Dentists]
Benefit (sort of pensions, what is insured)	Old-age Disability Survivors	
Financing	Unfunded (SPPA) Funded (LGPS)	
Indexation	Yes, linked to wages (LGPS) Yes, linked to Consumer Prices (SPPA)	
Waiting / vesting periods	three months waiting period (LGPS) three months vesting period (LGPS and SPPA)	
Based on collective agreement	No	

In the **Local Government Pension Scheme in England and Wales** there are 89 Funds with over 2000 separate local authority employers, schools further and higher education bodies and the Environment Agency. Other scheme members are private sector bodies carrying out public services and/or functions (eg some bus companies, payroll provision, building maintenance). About 1.75 million employees and about 1.11 million retired employees are part of the scheme. The scheme features of the **Local Government Pension Scheme in Northern Ireland** (EAPSPI Member DOE) maintains a policy of parity with England and Wales and is therefore similar to the Local Government Pension scheme in England and Wales. In these

Local Government Pension Schemes of England, Wales and Northern Ireland  $1/60 \times$  final salary  $\times$  no. of years of employment will be the future pension of the employees relative to membership since 1 April 2008. Membership before that date built up a pension at  $1/80^{\text{th}}$ , with an automatic tax free cash lump sum of three times the pension built up.

The employers pay a recommended contribution rate (RCR) by adjusting standard contribution rate (SCR) with a view to eliminating, over a fixed period any surplus or deficit revealed by the actuarial valuation with employers: The contribution rates are fixed by each fund's actuary at each triennial valuation so as to en-

sure ongoing stability of contribution rates, and achieve solvency' i.e. the ongoing capacity to meet liabilities as they fall to be paid. They must give regard to investment and funding strategy regarding how to manage a surplus or deficit.

The contributions of the employees are fixed to a ceiling up to 6.3/6.4 percent of payroll.

The **Scottish Public Pensions Agency (SPPA)** is an Agency of the Scottish Government. Its principal role is to administer the pension, premature retirement and injury benefits schemes for employees of the National Health Service Superannuation Scheme in Scotland (NHSSS) and for members of almost 450,000 active, deferred and retired members. The NHS Superannuation Scheme was introduced in 1948. It is a statutory, guaranteed by law, scheme which provides pensions and life assurance for those employed by the NHS in Scotland. It also provides benefits upon a members death for life to either the legal spouse, registered civil partner, qualifying partner or dependant children until the age of 23. In 2008 new rules for members joining the scheme for the first time, or returning after a break of 5 years were made:

- Normal benefit age 65
- Pension accrual rate 1/60th officers and 1.87 % practitioners
- Survivor pensions for partners based on full service payable for life
- Able to take part pension and continue working

- Enhanced pension for working longer than normal benefit age
- No automatic lump sum but can commute pension to take up to 25 % of pension pot as a lump sum.

### 3 „Reality” of portability and occupational mobility

There are different transfer rules:

In the **Local Government Pension Scheme** individuals have right to transfer to any other pension scheme or personal pension after leaving LGPS employment. If they are part of a transfer which is covered by the terms of the Acquired Rights Directive (in UK delivered by virtue of TUPE provision – Transfer of Undertaking Protection of Employment Rights) then, contracting authorities will be required to ensure the pension rights for their transferring staff are the same as, broadly comparable to, or better than, those rights received as an employee of the authority. Transfer arrangements are at Local Authority level, using national guidance provided by Scheme manager (ie CLG) in conjunction with Government Actuary's Department.

In the **National Health Service Superannuation Scheme in Scotland (NHSSS)** scheme members who leave are able to transfer their benefits out of the scheme to:

- Another occupational pension scheme;

- A personal pension scheme;
- An insurance company to buy an annuity contract; or
- A self employed pension arrangement.

Transfers are only possible to registered schemes and only allowed up to the scheme pension age (60 or 65) and the person must have more than 3 months of service. A CETV based on actuarial factors is transferred to the other scheme.

The Public Service Transfer Club contains special arrangements for the public sector. It affects only transfers between public service schemes and is a common basis for transfers.

It was founded initially around 1956/57, to encourage free movement between public service employments, and operates on an assumed cost-neutral basis for the employers who operate within the Club.

In addition to the portability between pensions schemes in the UK there are also transfer out of the UK, so called overseas transfers. These transfers are only possible for qualifying recognised overseas pension scheme – QROPS which must provide undertakings of the HMRC (Her Majesty Revenue and Customs). Requirements for these transfers are that the scheme, employer and member must be in the same

country and that the emigration will be permanent. The value of transfer is subject to a lifetime allowance calculation. At 2011 the Lifetime Allowance is about of £ 1.8 mn and will be reduced to £1.5 million in 2012.

Transfers to the PSEUI (see chapter 3.1) fall under special agreements with the EU. But for practical reasons the PSEUI also has a QROPS-number.

#### **4 Challenges / trends / best practice**

Subsequent to the Hutton Commission report into the future of public service pension schemes, which the Coalition Government of 2010 requested, it is likely that all public service schemes will be moving away from pension schemes based on final salary to ones based on career average accrual. All rights earned under the current final salary basis will be protected and calculated against final salary at point of departure post April 2015 (LGPS) or 2016 (other public service schemes). Rates of accrual and revaluation prior to retirement will be different between schemes so it is likely some form of transfer between schemes will continue to operate. (Compare this to the experience in the Netherlands, where a move to career average arrangements across public and private sectors saw a significant reduction in transfer requests and movement of liabilities between employers.)

## Overview of the PSEUI-Scheme

PSEUI	Description
Type	DB Final pay
Benefit (sort of pensions, what is insured)	Old-age Disability (allowance) Survivors
Financing	PAYG
Indexation	Yes
Waiting / vesting periods	No
Based on collective agreement	No, based on EU-Council Regulation

### 1 General Information

#### Legal basis PSEUI

The PSEUI is set up under the provisions of European Union [EU]-Council Regulation no. 259/68 of 29 February 1968, being the Staff Regulations of the Officials of the European Union. A major reform of the PSEUI has taken place under Council Regulation 723/2004 of 22.03.2004 which entered into force on 1 May 2004. EU-Council regulations are immediately and without other formalities applicable in all EU-member states to all individuals, legal entities and all public and private bodies.

#### Nature of the PSEUI

The PSEUI is a supranational occupational pay-as-you-go-pension scheme set up for the European Public Sector. It is not funded and the payments of its benefits are registered as expenses in the General Budget of the EU. The income

(mainly personal contributions) is booked as a proper income in the General Budget of each EU Institution.

All officials, temporary and contract agents (hereafter „agents“) in active service must pay contributions to the PSEUI. One third of the expenses have to be financed by the personal contributions of the agents; the payment of two thirds of the expenses is guaranteed by the Member States.

#### Types of pensions

##### Retirement pension

Having at least ten years of service in the EU Institutions (unless pensionable age – 63 years - is reached before).

For each effectively worked year and for each year which is the result of an earlier carried out transfer-in the agent obtains a pension right of 1.9 % of the last basic salary.

Normal pensionable age is 63 allowing the full payment of the acquired rights. Pension is payable as from the age of 55 after reduction of 3.5 % per year earlier than age of 63. Agents working between the age of 63 and 65 obtain a bonus of 2% of the last basic salary per annum.

A maximum of 70 % of the last basic salary on which contributions to the PSEUI have been paid can be granted as retirement pension. A minimum retirement pension solely related to years of effective service in the EU Institutions is guaranteed.

#### **Invalidity pension / allowance**

In all cases 70 % of the last basic salary. Pension contributions (calculated on 100 % of the last basic salary) are deducted from the allowance (same rate as for salaries). Re-integration into active service is possible. Payable until the individual reaches the maximum retirement pension or at the latest until the age of 65.

As soon as maximum retirement pension or the age of 65 is reached, the invalidity allowance is converted into a retirement pension.

#### **Survivor's pension**

Payable to surviving partner and / or orphans. Normally 60 % of the acquired right to a

retirement pension is attributed as survivor's pension to the surviving partner. A minimum survivor's pension is guaranteed.

## **2 Supra-national portability of pension rights**

### **Staff Regulations of the Officials of the European Union (SR)**

Under the provisions of the SR (articles 11 and 12 of Annex VIII to the SR), portability of pension rights needs to be defined as follows:

- „Transfer-in”: the effective transfer towards the PSEUI of elsewhere acquired pension rights carried out by the payment of a capital representing these rights;

OR

- „Transfer-out”: the effective transfer towards an external pension scheme or fund or insurance company (hereafter „pension scheme”) of the under the PSEUI acquired rights (on the basis of active service or by virtue of earlier carried out ‘Transfers in’). These rights are represented by an actuarial value which is paid to the pension scheme of destination.

Portability of pension rights from and towards all kinds of pension schemes are possible: established in the EU-Member States, International Organisations, pension schemes established in third countries.

The PSEUI cannot be categorised under the so-called „pillar system" as all occupational pension rights, whatever their nature is, - basic, complementary, compulsory, conventional, voluntary, private sector, public sector, self-employed etcetera are transferable to the PSEUI.

As the right to „Transfer-in" or „Transfer-out" is set up by statutory provisions, all pension schemes established in the EU-Member States must collaborate with such transfers. If needed, EU-Member States are obliged to put in place the legal framework enabling such supra-national transfers. Transfers-in or -out need to be carried free of taxes and / or deductions of social contributions.

#### **Transfers-In**

The statutory right of the agents is foreseen under Paragraphs 2 and 3 of Article 11 of Annex VIII to the SR.

The pension rights transferable to the PSEUI:

- Are solely occupational pension rights (acquired by virtue of professional activities and strictly linked to these) and
- acquired before entering the service in the EU Institutions > (Paragraph 2).

OR

- Acquired during a period of leave on personal grounds or a period of secondment > (Paragraph 3).

It is the EU-Member State (c.q. the pension scheme of origin) which is competent to calculate the transfer value. This transfer value has any way to be updated until the date of effective transfer to the EU institution.

The transfer value calculated by the pension scheme of origin is converted into supplementary pensionable years (annuities) under the PSEUI. These annuities will be taken into account when the right to an EU retirement or survivor's pension is established.

The formula (on parameter date = date of registration of transfer application):

- Received transfer value / conversion coefficient = total A
- Monthly basic salary x 12 x 1.9 % = total B  
> total A / total B = annuities generated by transfer

#### **Transfers-Out**

The statutory right of the agent is provided for:

- Under Paragraph 1 of Article 11 of Annex VIII to the SR (option 1);
- Under Paragraph 1b of Article 12 of Annex VIII to the SR (option 2).

#### **Transfers-Out a)**

The agents who *has not* reached one year of active service upon leaving the EU-Institutions will be entitled to payment of the sum including:

- The reimbursement of the paid personal pension contributions

- The double of the first indicated amount being the equivalent of the employer's part.

#### **Transfers-Out b)**

The agent who has not acquired the right to the payment of an EU-retirement pension (e.g. less than ten years of active service) is obligated to make a transfer-out of all under PSEUI acquired pension rights (active service + transfers in) to:

- The occupational pension scheme under which the agent acquires pension rights after leaving the service from the EU-institutions (cf. option 1).

OR

- The pension fund or private insurance company of his choice complying with 4 strict conditions:
  - The pension capital will not be repaid;
  - Guarantees monthly income, at the earliest at the age of 60, at the latest at the age of 65;
  - Provisions are included for reversion or survivor's pensions;
  - Transfer to another / follow up scheme is only possible if new / follow up scheme agrees with the same three earlier mentioned conditions.

#### **Transfers-Out c)**

The agent who has acquired the right to the payment of an EU retirement pension has the possibility to make a transfer out of all under PSEUI acquired pension rights (active service + transfers in) only to the occupational pension scheme under which the agent acquires pension rights after leaving the service from the EU institutions (cf. option 1).

For the purpose of the transfer out, all under the PSEUI acquired pension rights will be converted into an actuarial value.

The formula (upon date of leaving the service) is:  
 Last basic monthly salary x 12 x 1.9 % x number of acquired pensionable years x applicable conversion coefficient (linked to the age).

### **3 Completion**

For the sake of completeness is stated that the aforementioned information about the PSEUI and the supra-national portability of pension rights refers to EU-legislation and regulations in force on 20 June 2011, which legislation / regulations, of course may undergo modifications at all times.

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## MAIN OBSTACLES OF PRACTISING PORTABILITY





# MAIN OBSTACLES

## 1 General obstacles

The issue of portability involves more than one party. Portability is not only a concern for the migrant worker but also for the employers and the social partners. Thus, any regulation at European level might unintentionally disrupt collective agreements made within Member States, and requires a minimum harmonisation which could jeopardise the principle of subsidiarity so deeply enshrined in our states.

EAPSPI made the following observations concerning the issue of portability:

- Different risks are covered in different schemes.
- Besides the risk-covering, there are other large differences between the schemes (e.g. indexation).
- The ratio of basic to occupational pension can vary considerably even within the same country according to salary levels.
- Scheme members can gain or lose with the transfer of their accrued rights. A possible loss can occur by different salary levels, by the calculation of the CETV or the technical interest rate.

All these difficulties are explained in detail in EAPSPI's first portability report (second edition) from 2007. A lot of these problems were also described in the answers to the Green Paper, „Towards adequate, sustainable and safe

European pension systems"<sup>53</sup>. The respondents give hints on several aspects which have been – and still are – regarded as obstacles to portability.

Some noted that, in practical terms, transfers were too difficult to be a serious option. Major technical difficulties are seen in terms of providing fair transfer values, associated administrative and cost burdens, the impact of different rules, social and labour law and tax treatment and the inherent risk of abuse of pension systems.

Other concerns include the possible impact of transfers on pension schemes, as significant withdrawals could put at risk the scale necessary to provide good value pensions.

A couple of responses, whilst supporting an approach based on acquisition and preservation, were against action at EU level, preferring this to be taken forward solely at national level (in one case citing the need for social partners to have the freedom to negotiate pension scheme rules). Another issue was that the large variety of supplementary pensions in Europe and their varying importance within national systems meant that minimum standards were not appropriate and could lead to higher costs and hence to pension scheme closures.

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<sup>53</sup> European Commission, summary of consultation responses to the Green Paper 'Towards adequate, sustainable and safe European pension systems', Brussels, 7.3.2011

In the summary, the responses as far as cross-border cases are concerned, favour an approach based on minimum standards of acquisition and preservation combined with work on the development of tracking services, perhaps beginning at the national level.

## 2 Taxation as a particular obstacle

Citizens of the European Union (EU) have a freedom of movement, which means that EU-employees can work wherever they can get employment within the EU. As pensions are not harmonised within the EU a mobile worker will therefore be confronted with several national pension rules.

Every EU-Member State has its own civil and fiscal regulations regarding for example the accrual of pension eligibilities, (flexible) retirement age, inbound and (if allowed) outbound pension transfer and pension payments in regular instalments or as a lump sum from the pensionable age or as a lump sum even before reaching the pensionable age.

As each EU-Member State has full fiscal autonomy, portability of (fiscal facilitated) pension capital within the EU is a cumbersome process. This is related to national fiscal facilitation of pension premiums in coherence with the future tax-claims whenever accrued pension capital is paid. All the EU-States with a second-pillar pension provision, have a taxation-system in which there is a fiscal coherence regarding the fiscal treatment of:

- Pension premiums (savings);
- Investment returns (investment-income) of these premiums;
- Pension (payments)

The taxation systems of the EU-countries can be described by way of a letter-typology. The first letter marks if the pension premiums are tax-deductible or not [with the letter „E” of „exempt” from tax or with the letter „T” of „taxed”. The second letter marks if the investment-return / investment-income is taxed (T) or not (E). The third letter marks if the pension payments are taxed (T) or not (E).

Most of the EU-countries have the so-called EET/ETT-typology, which means that the pension premiums are fiscal facilitated or in other words are deductible of the income before taxation (= **E**); the investment returns are also not taxed (=E)/ taxed (=T) and the pension payments are taxed (=T).

In the following overview<sup>54</sup> the fiscal typology is shown of the second pillar pension provision in the EAPSPI Member States:

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<sup>54</sup> The overview is based on a contribution of Schonewille, P.H.: 'Belastingen en pensioenen in EU-context / taxes and pensions in EU-context' in: Bollen-Vandenboorn (red.): 'Pensioen en de belangrijkste toekomstvoorzieningen / pension and the most important future provisions', p. 233 ff, 233, 234, with slight modifications in case of Denmark, concentrating on EAPSPI's members and (therefore) adding Norway and Switzerland.

Country	EET	ETT	TEE
Austria		X	
Belgium	X		
Denmark	X		
Finland	X		
France		X	
Germany	X		X
Ireland		X	
Italy		X	
Norway	X		
Portugal	X		
Slovenia	X		
Spain	X		
Switzerland	X		
The Netherlands	X		
United Kingdom	X		
Sweden		X	

It will be unlikely that there will be a „EU-pension-taxation-ruling”, because such a fiscal regulation can only be achieved by EU-unanimity. But, maybe some progress could be achieved if countries recognise each other „civil and fiscal conditions” under which pension entitlements are accrued. After all the national pension regulations are set up within the civil and fiscal framework of a country.

### 3 Taxation Problems

The problems of portability are shown by a practical case, called Tim Taxpayer

#### **Tim’s cross border employment-change**

Dutchman Tim F. Taxpayer, hereafter Tim, works as an assistant professor at the University Maastricht in the Netherlands (NL) and is married to his Swedish wife, Lova Kapan, who works temporary on base of a working-contract at the Academic Hospital Maastricht.

After three years, Lova’s working contract cannot be extended. Although Tim and Lova find Maastricht a beautiful city, Lova wants to go back to Sweden (S) and try to find new work in her homeland. When Tim succeeds to get a new job at a state university in Sweden the couple leaves NL and settles in S.

#### **Portability**

As an employee of a state university Tim becomes a member in the Swedish pension fund for the public and educational sector. Tim wants to transfer his accrued Dutch „second pillar” pension eligibilities towards the Swedish fund.

He therefore requests in NL for an „international value transfer” from the Dutch to the Swedish fund.

Can Tim’s portability-request be realised sufficiently between these two Member States of the European Union or will there be any legal obstacles?

Tim will find out that his request is a „cumbersome” process due to fiscal conditions.

#### **Pension regulation**

According to the Dutch Pension Act the Dutch fund is under applicable conditions obliged to co-operate on a pension transfer within the European Union.

Alongside general (and logical) pension conditions - such as direct transfer between the pension institutions; pension value is only to be used for members pension benefits; the consent of the partner if beneficiary for a partner pension - there is also the condition that the (possible) options in the „outbound scheme” for a pension-buyoff may not be more liberal than in NL.

In a practice case the Swedish pension regulation met with the conditions of the Dutch (civil) Pension Act because the Swedish scheme regulation at stake had a „Dutch-comparable” low buyout threshold. In other words, in this case both pension regulations had the same intention about the aim and use of pension savings, namely regular income after retirement and (in principle) no buy off above a very low pension level.

### **Fiscal regulation**

Unlike the Dutch (civil) Pension Act, the Dutch (fiscal) Wage Tax Act considers an international value transfer as a pension buy off, and commutations of pensions are in principle taxed. The Dutch Tax Authority however has to verify the content of the fiscal conditions and take a formal decision.

Alongside general (and logical) fiscal conditions - such as „substantial employment” in the new homeland the foreign pension plan is a conventional scheme in that country; benefits will be taxed on income - there is also the condition linked to a possible taxation to govern the collection of a tax-claim in the event of a buy off. In particular the foreign scheme must consent, in an agreement with the Dutch tax authorities, to accept the tax liability for a potential exit levy imposed on the taxpayer.

In addition to the foreign scheme's acceptance of a tax liability, it is an alternative option that the taxpayer gives the tax authorities an adequate (bankable) surety, such as a bank guarantee, for a preserved tax assessment.

Naturally a foreign pension administrator is not willing to accept a foreign tax liability and the Dutch pension administrator wants to be relieved of the fiscal liability. Furthermore, also taxpayer Tim will not be willing to provide an (expensive) bank guarantee to the Dutch tax authority on forehand for a possible 'tax-sanctioned' transaction (buy off), which commutation Tim might not want or do anyway.

### **Fiscal obstacle**

If an international portability would be realised without permission of the tax authority, the Dutch fund can be held liable for a preserved tax assessment if ever a tax-sanctioned transaction such as the buy out of Dutch pension capital in another country occurs. Furthermore, the taxpayer receives a preserved tax assessment in case a pension commutation would ever take place.

As such the fiscal regulation to ensure tax claims is an obstacle for transferability of benefits. International portability is therefore a cumbersome process.

## **4 Potential possibilities of tackling the taxation obstacle**

Could the transfer not be regulated more efficient for pension funds and mobile workers / pension members?

For instance, that the receiving scheme accepts the (foreign) pension capital along with the belonging conditions of the country of accrual. From a European perspective this can be qualified as a justified and realistic requirement.

If the transferred pension capital is not part of a buy off or otherwise alienated there will also be no tax-sanctioned transaction according to the Dutch tax legislation.

## Tax treaty NL - UK

The Netherlands (NL) and the United Kingdom (UK) agreed on a new bilateral tax treaty, which treaty came into effect in 2011. Pensions are arranged in Article 17 of the NL-UK-Tax-Treaty (NL-UK-TaxT).

It is more common between countries that taxation of pensions accrued in public service is granted towards the „source-state”, while taxation of pensions accrued in private service is granted towards the „inhabitant- or homeland-state” (hereafter „homeland-state”). According to Article 17-1 NL-UK-TaxT all pensions are taxed in the „homeland”, but can (on base of Article 17-2 NL-UK-TaxT) also be taxed in the „source-state” when the following three cumulative conditions are fulfilled:

- Pension premiums are fiscal facilitated in the „source-state”.
- Pension payment is taxed less then 90 % of the regular Income-tax-rate in the „homeland”.
- Total amount of pensions provisions from the „source-state” does not exceed € 25.000.
- So for smaller pensions there will be only a taxation claim of one country, the „homeland”.

Furthermore the NL-UK-TaxT arranges also where a pension, so to speak, „comes from” and if a possible pension portability between a Dutch and a British pension institution affects the taxation-claim of the treaty-countries.

In Article 17-4 NL-UK-TaxT is set out that a „pension” find its origin in the state where the pension premiums were fiscal facilitated; in other words were deducted from the taxable income (tax exempt). Furthermore is expressively set out that possible pension portability between pension institutions of the two countries does not affect the tax-claim of the „source-state” which facilitated the pension accrual.

Article 17-3 NL-UK-TaxT arranges the taxation in case of pension commutation (buy off) as follows. Whenever there is a pension-buy off before the regular pensionable age the „source-state” is (also) allowed to tax the pension-lump sum. If the pension-buy off would take place on or roundabout the regular pensionable age the NL-UK-TaxT gives an exclusive taxation-claim to the „source-state”.

It’s a possibility in the UK that 25 % of a pension can be bought off on or roundabout the regular pensionable age (to stimulate pension provision savings in the UK). Article 17-3 of the NL-UK-TaxT has the effect that NL has to grand a tax-exemption to prevent a double taxation in case of the payment of a UK-pension lump sum to an inhabitant in NL. Although NL is no patron of non-taxation of pension commutation, it excepted the UK pension approach.

On the other hand, NL is authorised to tax in case a UK-inhabitant would receive a pension lump sum payment regarding pension capital accrued in NL regardless if this Dutch pension capital in the past was transferred to a British

pension institution. The UK excepted in this the NL pension approach.

Therefore, it would be a step forward on the issue of mobility and pensions to accept foreign

pension capital with associated conditions of the pension “source state”. This association could be linked between national pension and fiscal acts and the bilateral tax treaties between countries.

## **MAIN OBSTACLES**

EAPSPI identified taxation as a particular obstacle:

Pensions are not harmonised within the EU. Furthermore, every EU-Member State has full fiscal autonomy. As such the fiscal regulation to ensure tax claims is an obstacle for transferability of benefits. International portability is therefore a cumbersome process.

Besides, EAPSPI made the following observations concerning the issue of portability in its first portability report (second edition) of 2007:

- Different risks are covered in different schemes.
- Besides the risk-covering, there are other large differences between the schemes (e.g. indexation).
- The ratio of basic to occupational pension can vary considerably even within the same country according to salary levels.
- Scheme members can gain or loss with the transfer of their accrued rights. A possible loss can occur by different salary levels, by the calculation of the CETV or the technical interest rate.

All these difficulties are explained in detail in EAPSPI’s first portability report (second edition) of 2007.

CONCLUSION AND OUTLOOK





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# CONCLUSION AND OUTLOOK

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Even if it is generally assumed that only a small part of the workforce takes up employment in another EU-country (0.2 % according to the Commission's Impact Assessment of 2005), it has to be realised that the number of employees moving from one country to another - the so-called „global nomads“, is increasing. As an internationalisation of the labour market progresses at an ever-increasing rate, especially among Member States of the European Union, requests for cross-border transfers are becoming more common. This holds particularly true among personnel that is more internationally mobile, such as employees of universities, of the health and engineering sector. For them, diversity of pension rules can be an obstacle to mobility.

Besides, funded DC schemes are increasing. They have the possibility to provide transfers, although they implement a higher risk for the employees. Thus, transferability of cash values could be one method to remove obstacles to mobility. But in fact there are only a few Member States which allow or even regulate cross-border transferability and the conditions to provide transfers are often not clear and transparent. The costs of transfers and taxation of the transfer amount and/or the later pensions can greatly decrease the value and so are often especially disadvantageous for mobile workers.

Many questions remain unresolved and the different national pension systems do not allow any uniform regulation of cross-border transfers at European level. It is too ambitious to involve all schemes at once in a single transfer model

which is regulated by EU law. Also, the Commission, in its White Paper on pensions, did not refer to transfers as the subject of a proposed measure. Rather, the Commission announces in the White Paper that in collaboration with stakeholders such as the social partners, the pension industry and advisory bodies like the Pensions Forum - a code of good practice for occupational pension schemes will be developed.

## 1 How to foster practice of portability

Transferability between all pension schemes is neither feasible nor sensible. Therefore, the activities should concentrate on the schemes that do want to practise it, in order to help them gain experience and solve existing problems. In this way, pension schemes can practise transfers with similar systems and outline the conditions in bilateral agreements if there is no legal regulation applicable. The area of highly mobile professionals will especially fuel the demand from the customer to the providers and social partners to also provide portability. Through the reciprocity of transfers, unilateral capital outflows can be avoided. In its opinion on the Green Paper, EAPSPI identified principles as common basis on which transfer agreements could be voluntarily agreed upon.

1. Transfers can only be provided by funded pension schemes
2. It is recommended to transfer the cash equivalent transfer value and no pension rights.

3. The cash equivalent transfer value is being calculated according to the rules of the former scheme for value calculation and later transferred into pension claims according to the rules of the new scheme.
4. Only complete transfers are permitted to disengage the former scheme from any liability.
5. The pension schemes provide sound information about the transfer process in order to enable the mobile worker to make the decision about the transfer.

These principles could build a common ground for the pension institutions to let transfers flow and gain the necessary experiences to later devise a code of best practices. However, this approach can only be successful if the main obstacle to transferability is removed: The different tax treatment.

In the White Paper the Commission clearly points out that tax and other financial incentives as well as collective bargaining play an important role in enhancing complementary retirement savings. To support their social objectives, states use tax law as a governance tool. Implementing tax breaks and exemptions to incentivise citizens to save for old age is an appropriate means. Therefore the Commission will cooperate with Member States to optimise the efficiency and effectiveness of tax incentives for private pension provision.

Otherwise, the Commission identifies taxation in the White Paper as an obstacle to making supplementary pensions compatible with mobility.

The aim of the Commission of tackling the issues of tax obstacles to cross-border mobility in the context of pensions will enhance portability in the future. In this context, best practice examples could make a significant contribution. EAPSPI sees the new tax treaty between the Netherlands and United Kingdom (see chapter 3) as a good instrument to tackle the problem of different pension taxation.

In a pension scheme, there could be potential elements which could be described as obstacles to mobility which penalizes the mobile worker. They occur, for example when acquired pension rights are deteriorated due to insufficient indexation. From the individual perspective, then a capital transfer can be the rational choice for the individual, to protect his/hers acquired pensions rights. Mobile workers could also be confronted with waiting periods and vesting periods, which could reduce his or hers ability during the working career to acquire a sufficient pension. These forms of obstacles are nevertheless important to have a focus on. EAPSPI is looking forward to analyse and describe this in one of its next publications.

## **2 Fostering mobility by means of better information**

The European Union is continuing on the road to closer integration. Sustainability is very important with regard to future pension claims, especially in light of the sovereign debts and member states' budgets. Thus reforms of pension systems across Europe will be necessary. However, it is neither intended nor appropriate to limit the member states' responsibility for the national pension schemes.

Different pension systems will remain a reality of life in Europe. Regardless of the given options of cross-border pension funds and transferability, the mobile workers will go on dealing with

pension eligibilities in several pension schemes. Therefore, sufficient, understandable information and transparency is the key to fostering mobility.

This report gives an overview of the reality of portability of pensions in different European Member States and identifies existing obstacles to mobility. It is our ambition to publish afterwards a second part in which we will show other approaches and various case studies which will demonstrate how high quality information can be provided in order to foster mobility and try to recommend practical solutions. One of the main topics will be the development of tracking services both within the Member States and cross-border, such as the Find your Pension portal.

## **MAIN FINDINGS**

### **Fostering Portability:**

EAPSPI identified the following principles as common basis on which transfer agreements could be voluntarily agreed upon.

1. Transfers can only be provided by funded pension schemes.
2. It is recommended to transfer the cash equivalent transfer value and no pension rights.
3. The cash equivalent transfer value is being calculated according to the rules of the former scheme for value calculation and later transferred into pension claims according to the rules of the new scheme.
4. Only complete transfers are permitted to disengage the former scheme from any liability.
5. The pension schemes provide sound information about the transfer process in order to enable the mobile worker to make the decision about the transfer.

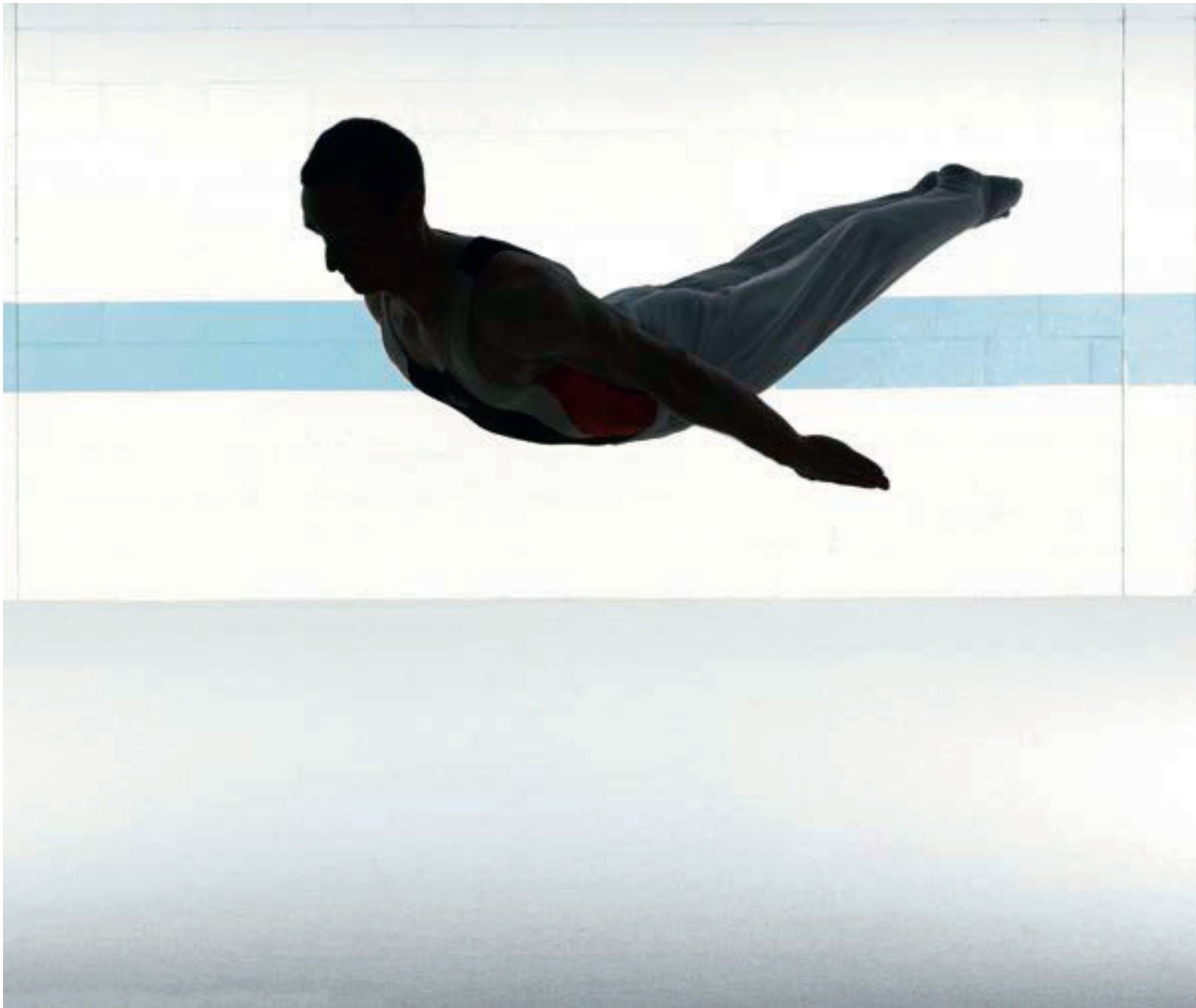
These principles could build a common ground for pension institutions to let transfers flow and gain the necessary experiences to later devise a code of best practices. However this approach can only be successful if the main obstacle to transferability is removed: The different tax treatment.

### **Fostering Mobility:**

Reforms of pension systems across Europe will happen, but Member States' responsibility for the national pension schemes will remain. Different pension systems will therefore be a reality of life in Europe. The mobile workers will go on dealing with pension eligibilities in several pension schemes.

Sufficient, understandable information and transparency is the key to fostering mobility.

ANNEX



## Members of the working group



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SPV, Sweden



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APG, the Netherlands



Allan Paldanius  
Keva, Finland



Bjørn Hamre  
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KPA, Sweden



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Claudia Wegner-Wahnschaffe  
VBL, Germany

## About EAPSPI

EAPSPI is an association of 26 public sector pension schemes out of 16 European countries that are responsible for nearly 33 mn active members and pensioners in the public sector. The connecting factor of EAPSPI's members and observers is thus the public sector in Europe: They cover the special basic pension schemes for civil servants or the supplementary schemes for public employees.

EAPSPI's main purpose is to enable its members to improve the mutual knowledge of their institutions and that of the social system of their respective countries. EAPSPI actively takes part in the construction of a social Europe. Therefore, EAPSPI's members analyse ways and means of improving services offered to their clients (pensioners, active members and employers) by learning best practices from other institutions and by analysing the impact of EU-law for the national pension schemes. To achieve this purpose, EAPSPI promotes exchanges of expertise and information through working groups, conferences, seminars, information letters and direct contacts between its members.

The role of EAPSPI is not limited to a mere information exchange. The importance of EU-law in the field of pensions is steadily increasing. Therefore, EAPSPI also offers a common platform for the pension institutions of the public sector towards the European institutions, such as the Commission, the Parliament and other stakeholders at EU-level. However, EAPSPI is

not a pressure group. EAPSPI merely aims to position itself as a pension expert in order to demonstrate the effects especially of new legislative projects. Hence, EAPSPI develops relations and interacts with European institutions and other international organizations.



ABP

Supplementary scheme for Dutch public employees  
Netherlands



AKA

Arbeitsgemeinschaft kommunale und kirchliche Zusatzversorgung (AKA) e.V. (Pension scheme for local and church employees and civil servants)  
Germany



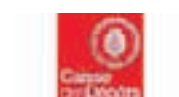
ASIP

Association Suisse des Institutions de Prévoyance  
Switzerland



BPK

Bundespensionskasse AG  
Austria



CDC

Caisse des Dépôts et Consignations  
France



CGA

Caixa Geral de Aposentações

Portugal



DEHLG

Department of the Environment, Heritage and Local Government

Ireland



Department of Finance

An Roinn Airgeadais

Ireland



DOE

Department of Environment

United Kingdom



ELKARKIDETZA pentsioak

Supplementary scheme for the Basque public sector

Spain



E.P.S.V.

Federación de Entidades de Previsión Social Voluntaria de Euskadi

Spain



Inpdap

Istituto nazionale di previdenza per i dipendenti dell'amministrazione pubblica

Italy



Modra zavarovalnica, d.d.

Služba za pravne in kadrovske zadeve

Slovenia



Keva

Finland



KLP

Kommunal Landspensjonskasse

Norway





KPA Pension  
Kommunsektorns Pension AB  
Sweden



sppa  
Scottish Public Pensions Agency  
United Kingdom



lgps  
Local Government Pension Scheme  
United Kingdom



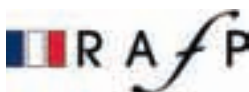
SPV  
The National Government Employee Pensions Board  
Sweden



ONSSAPL  
Office national de sécurité sociale des administrations provinciales et locales  
Belgium



Valida Pension AG  
Pension fund  
Austria



RAFP  
Retraite additionnelle de la fonction publique  
France



VBL  
Versorgungsanstalt des Bundes und der Länder  
Germany



SAMPENSION KP LIVSFORSIKRING A  
Kommunernes Pensionsforsikring  
Denmark



VBV-Pensionskasse AG  
Pension fund  
Austria



SdPSP  
Service des Pensions du Secteur Public  
Belgium

**E A P S P I**

**Pensions for the Public Sector**

**European Association of Public  
Sector Pension Institutions**

Association Européene  
des institutions de retraite  
du secteur public

Europäischer Verband  
der Versorgungseinrichtungen  
des öffentlichen Dienstes

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