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**COMMISSION STAFF WORKING DOCUMENT**  
**EU LEGISLATION, COVERAGE AND RELATED INITIATIVES**

*Accompanying document to the*

**GREEN PAPER**

**towards adequate, sustainable and safe European pension systems**

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This document describes EU legislation covering the pension pillars (section 1) and related EU legislation and initiatives (section 2). A mapping of the EU legislation applicable to pension schemes/institutions in the different EU Member States is provided in section 3. This mapping focuses in particular on prudential regulation and was carried out by the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

## **1. DESCRIPTION OF EU LEGISLATION COVERING THE PENSION PILLARS**

### **1.1. Social Security Regulation**

EU law in the field of social security provides for the co-ordination but not the harmonisation of social security schemes. This means that each Member State is free to determine the details of its own social security system, including which benefits are to be provided, the conditions of eligibility, how these benefits are calculated and what level of contributions should be paid. EU law provisions, in particular Regulations No 883/2004<sup>1</sup> and No 987/2009<sup>2</sup> (replacing Regulations No 1408/71<sup>3</sup> and No 574/72<sup>4</sup> since 1 May 2010), establish common rules and principles which must be observed by all national authorities when applying national law. These rules ensure that the application of the different national legislations respects the basic principles of equality of treatment and non-discrimination and persons exercising their right to free movement within the EU are not adversely affected by the application of different national legislations.

With regard to pensions, the EU Coordination Regulations cover old-age pensions, survivors' pensions and invalidity pensions. In general, only statutory schemes are coordinated. The EU Coordination rules lay down for the following principles:

- Aggregation: periods of insurance or residence completed under the legislation of another Member State are taken into account if necessary for entitlement to a benefit;
- Waiving of residence clauses: entitlement to a pension does not depend on residence in the Member State granting the pension;
- Each Member State where a person was insured for at least one year pays a pension; there is no 'transfer' of pension rights to the pension system of another Member State.

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<sup>1</sup> Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland), OJ L 166, 30.4.2004, p. 1–123

<sup>2</sup> Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

<sup>3</sup> Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community

<sup>4</sup> Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community

## **1.2. The IORP Directive**

A major milestone was reached in 2003 with the adoption of Directive 2003/41/EC<sup>5</sup> on the activities and supervision of institutions for occupational retirement provision (IORP Directive). It enables pension funds to benefit from the Internal Market principles of free movement of capital and freedom to provide services. The Directive allows pension funds to manage occupational pension schemes for companies that are established in another Member State and allows European-wide companies to have only one pension fund for all subsidiaries in Europe. The Directive establishes prudential standards to ensure that members and beneficiaries are properly protected, as well as requirements concerning the disclosure of information. The Directive is, however, based on minimum harmonisation and mutual recognition and it does not cover all forms of occupational pension provision.

## **1.3. The Insolvency Directive**

Directive 2008/94/EC<sup>6</sup> provides for the protection of employees' rights in the event of the insolvency of their employer, in particular in order to guarantee payment of their outstanding claims. As far as supplementary occupational pensions are concerned, Article 8 requires Member States to adopt the necessary measures to protect these pensions. The European Court of Justice has ruled<sup>7</sup> that the Directive places no obligation on the Member States themselves to fund the rights to old-age benefits. Furthermore the Court took the view that the Directive cannot be interpreted as demanding a full guarantee of the rights in question. The Directive does no more than call, in general terms, for adoption of the measures necessary to "protect the interests" of the persons concerned, while leaving the Member States considerable latitude as regards the level of protection and ruling out any obligation to provide a full guarantee. At the same time, the Court considered that a system which may, in certain cases, lead to a guarantee of benefits of less than half of that entitlement, cannot be deemed to fall within the definition of "protect" as applied in the Directive.

## **1.4. The existing Directive on safeguarding supplementary pension rights of a person moving within the EU and the draft proposal on portability of supplementary pension rights**

Unlike with social security pensions which are aggregated under EU rules, people who have supplementary pension rights may lose out when they change jobs within or between countries. A first step to tackle this issue was Council Directive 98/49/EC<sup>8</sup>, which effectively ensured that people moving across borders were treated no worse than those moving within a Member State. The Directive does not cover, however, what is often called the "portability" of supplementary pensions even though this may have a serious effect on worker mobility.

The Commission has recognised that insufficient portability of supplementary pension rights can create important obstacles to workers' mobility, and therefore to the free movement of

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<sup>5</sup> Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, OJ L 235 , 23/09/2003 P. 0010 – 0021.

<sup>6</sup> Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer OJ L 283, 28.10.2008, p. 36

<sup>7</sup> Judgment of the Court of 25 January 2007 (Carol Marilyn Robins and others v Secretary of State for Work and Pensions). C-278/05. ECR 2007 Page I-01053

<sup>8</sup> Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community, OJ L 209, 25.7.1998, p. 46–49.

workers which is one of the basic rights enshrined in the Treaty. The Commission proposed a new Directive in October 2005 to set minimum standards for the acquisition, preservation and transferability of supplementary pension rights. These standards would apply to people moving both within and between EU countries. Internal mobility was included because it was impractical to separate internal and external mobility. In addition, labour mobility was key to promoting economic dynamism and labour market adjustment, as set out in the Lisbon Strategy.

The proposal was revised by the Commission in 2007 to omit the transferability element which had been opposed by some as technically difficult and potentially burdensome or open to abuse. As a result, the emphasis was laid on the timely acquisition of pension rights and their subsequent preservation (indexation). However, it has still not been possible to reach the unanimous agreement needed in Council. The proposal remains 'live'.

## **1.5. The Life Assurance Directive**

The internal market in the field of life assurance, allowing insurance undertakings to operate throughout the EU and to establish and provide services freely, was initiated in 1979 with the adoption of the First Life Directive.<sup>9</sup> The subsequent improvements to the legal framework were recast in 2002 into a single text (Directive 2002/83/EC<sup>10</sup>). The prudential rules applicable to life assurance undertakings were substantially overhauled in 2009 with the adoption of the Solvency II Directive (Directive 2009/138/EC<sup>11</sup>). The harmonisation of insurance regulation will give a new impetus to the internal market for life assurance products through greater economic efficiency and stronger protection of policy holders. It was, however, not the objective of the Solvency II Directive to modernise the policyholder information requirements, which continue to differ significantly across Member States.

## **2. RELATED EU LEGISLATION AND INITIATIVES**

### **2.1. UCITS IV Directive**

The UCITS Directive<sup>12</sup> contains the regulatory framework for retail funds at the European level and lays the basis for a single market in these funds. UCITS IV changes were adopted in 2009 to address a number of efficiency concerns, investor protection issues, and practical problems that have been identified in relation to the UCITS industry, the combination of which was considered to be limiting the development of the UCITS market.

More specifically, changes were made, for example, in the areas of governance and risk management. The UCITS IV Directive contains changes that enhance the effectiveness of the management company passport, in particular by providing for safeguards that foster

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<sup>9</sup> First Council Directive 79/267/EEC of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance, OJ L 63, 13.3.1979, p. 1–18.

<sup>10</sup> Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002 concerning life assurance, OJ L 345, 19.12.2002, p. 1–51.

<sup>11</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (Text with EEA relevance), OJ L 335, 17.12.2009, p. 1–155.

<sup>12</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), OJ L 302, 17.11.2009, p. 32–96.

supervisory cooperation and mutual confidence. To ensure this confidence, the Commission is due to adopt Level 2 implementing measures by the end of June 2010 that will harmonise certain attributes of management companies business (in particular organisational arrangements including rules of conduct, conflicts of interest but also risk management and measurement). As a result, once the management company is approved in one Member State it will be subject to a harmonised set of standards across the EU.

## **2.2. Pre-contractual information disclosure**

There are several examples of testing of pre-contractual information for financial services, both at EU and national level. At the EU level, the Commission asked OPTEM and its partners in the 27 Member States to carry out a qualitative study among consumers on the subject of pre-contractual information for diverse types of financial products, including consumer credit, mortgage loans and investment services. A summary report was made available in January 2008.<sup>13</sup>

The UCITS IV Directive requires UCITS to provide a Key Investor Information (KII) sheet in a harmonised and standardised form to the investor. On the basis of a consumer testing that fed into advice from the Committee of European Securities Regulators (CESR), the Commission will adopt Level 2 implementing measures by the end of June 2010. The results of the testing underlined the difficulty faced by retail investors in effectively engaging with and using information about investment products. It showed that key information on risks, costs and performance was calculated and presented inconsistently or in such a way that it was difficult to use, and detailed content or presentation of information was not standardised. The Level 2 implementing measures are to ensure that the communication and presentation of Key Investor Information to individuals is visual, simple, and facilitates comparisons across funds.

The Commission announced in its Communication of 30 April 2009 on Packaged Retail Investment Products (PRIPs)<sup>14</sup> its commitment to introduce a new horizontal approach to the regulation of sales and pre-contractual disclosures for these products, so as to ensure a level playing field between different types of investment products offered in the retail market. The aim is to ensure that consumer protection measures are effective and appropriate. Following the Communication, the Commission will focus on developing specific legislative proposals for this new horizontal approach, possibly in Spring 2011. The PRIPs proposals will be subject to their own impact assessment, which will consider their incremental impact for all stakeholders.

## **2.3. Financial education**

The best way to increase the financial capability of consumers in the Internal Market is by developing coordinated strategies in individual Member States. The role of the Commission is to encourage the Member States to tackle financial education issues and to facilitate an exchange of best practices. The Commission has taken initiatives to organise expert meetings, maintain a European database, develop on-line tools for teachers and support events through patronage.

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<sup>13</sup> Pre-contractual information for financial services, January 2008, available at [http://ec.europa.eu/consumers/rights/docs/PCI\\_final\\_report\\_22Feb2008\\_en.pdf](http://ec.europa.eu/consumers/rights/docs/PCI_final_report_22Feb2008_en.pdf)

<sup>14</sup> Communication from the Commission on Packaged Retail Investment Products, 30.4.2009, COM(2009) 204 final

## **2.4. Corporate Governance and remuneration policies**

Following an announcement in the Commission Communication "Driving European Recovery" of March 2009, the Commission adopted a Green Paper on 2 June 2010<sup>15</sup> in order to launch a consultation process on possible (legislative and non-legislative) EU measures in the area of Corporate Governance in financial institutions. The Green Paper addresses, among others, the role of boards, shareholders, supervisors and external auditors in ensuring good corporate governance, governance of the risk management process and remuneration policies.

The Green Paper states that corporate governance should take account of the interests of other stakeholders (depositors, savers, life insurance policy holders, etc), as well as the stability of the financial system, due to the systemic nature of many players. A fortiori, these considerations are relevant for pension funds, considering their economic importance and their growing role in the society.

Furthermore, the Commission intends to consult, in a second stage, on possible measures in Corporate Governance for all listed companies early in 2011.

## **2.5. Non-life Insurance Directive (health)**

The First Non-life Insurance Directive (Directive 73/239/EEC<sup>16</sup>) specifies that health insurance constitutes insurance business. Accordingly, supplementary private health insurance (insurance which provides for health cover which is already covered by the statutory social security system), complementary private health insurance (insurance which provides for additional health cover which is outside the scope of the statutory social security) and substitutive health insurance (insurance serving as a partial or total alternative to health cover provided by the statutory social security system) are subject to the Non-life Insurance Directives. The first Non-life Insurance Directive excludes from the scope of the application of the non-life insurance directives "insurance forming part of a statutory system of social security." The same applies to long-term care insurance.

## **2.6. Health policy**

The state of people's health makes a significant difference between being able to work or not and therefore impacts on retirement age and expenditure on pensions. National healthcare reforms aimed at helping citizens to age in good health as well as EU action to promote healthy ageing (as foreseen in the EU Health Strategy White Paper) can therefore contribute to achieving the Europe 2020 objectives of retaining citizens longer on the labour market.

A population ageing in bad health means a smaller workforce with many people unable to work because of health problems, lower retirement age and therefore greater spending on pensions. A population ageing in good health can continue working as it grows older thus

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<sup>15</sup> Green Paper on Corporate governance in financial institutions and remuneration policies, COM(2010) 284, available at: [http://ec.europa.eu/internal\\_market/company/modern/corporate\\_governance\\_in\\_financial\\_institutions\\_en.htm](http://ec.europa.eu/internal_market/company/modern/corporate_governance_in_financial_institutions_en.htm)

<sup>16</sup> First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance, OJ L 228 , 16/08/1973 P. 0003 – 0019.



contributing to rising retirement age and lowering spending on pensions. Citizens in good health retire about two years later than workers in poor health.<sup>17</sup>

## 2.7. The Gender Equality Directives

Three Gender Equality Directives have an impact on pension schemes.

Directive 79/7/EEC<sup>18</sup> implements the principle of equal treatment between men and women in matters of social security and notably covers statutory pensions. It however contains a number of exceptions to the principle of equal treatment. Member States are, for example, allowed to maintain different retirement ages for men and women. At the same time, even if there is no obligation flowing from EU gender equality law to equalise pensionable ages for men and women in the field of social security, gender equalisation is often a first step in reforms aimed at increasing the retirement age in general to preserve the adequacy and sustainability of pensions.

Directive 2006/54/EC<sup>19</sup> on employment and occupation covers occupational pension schemes. In accordance with the case law of the European Court of Justice, this framework also applies to pension schemes for a particular category of worker such as that of public servants if the benefits are paid by reason of the employment relationship with the public employer. In this case, these benefits are considered as pay.

Finally, Directive 2004/113/EC<sup>20</sup> prohibits discrimination between women and men in the access to and supply of goods and services and therefore covers private/individual pension products. It contains an exception enabling Member States to permit proportionate differences in individuals' premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data (Article 5 (2)).

## 2.8. Taxation

In parallel to its proposal of the IORP Directive, the Commission presented a Pension Taxation Communication<sup>21</sup> in April 2001. At the time, many Member States did not grant tax relief for the payment of pension contributions to foreign pension funds, whereas they did so for payments to domestic funds. This would hinder the functioning of the proposed IORP Directive. The Pension Taxation Communication concluded that the Member States cannot discriminate against pension contributions paid to foreign IORPs. After attempts to find common solutions with the Member States in Council discussions, the Commission launched infringement procedures where necessary. Most Member States adapted their legislation. In two cases the Court of Justice of the EU ruled that if domestic pension contributions were tax

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<sup>17</sup> Survey of Health, Ageing and Retirement in Europe, Mannheim Research Institute for the Economics of Aging (MEA), 2008

<sup>18</sup> Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6, 10.01.1979).

<sup>19</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast - OJ L 204 of 26.07.2006). It notably repeals Directive 86/378/EC (amended by Directive 96/97/EC) on occupational social security schemes (OJ L 225, 12.08.1986).

<sup>20</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJ L 373 of 21.12.2004).

<sup>21</sup> The elimination of tax obstacles to the cross-border provision of occupational pensions, COM (2001) 214 final.

deductible, contributions paid to IORPs elsewhere in the EEA should also be tax deductible<sup>22</sup>. Concrete result of the Commission's work in the area is that mobile workers can now remain in their home country pension scheme if they take up a job in another Member State and contributions to IORPs in other Member States can now be paid without tax discrimination.

The Pension Taxation Communication also concluded that discriminatory tax rules can be an obstacle to the mobility of pensions. In *Commission vs. Belgium*<sup>23</sup>, the Court of Justice of the EU ruled that it is contrary to EU law to tax transfers of pension capital from domestic pension funds to funds established elsewhere in the EEA if transfers of pension capital between domestic pension funds are tax free. The Commission intends to examine whether there are any other Member States with similar rules.

In April 2003 the Commission published a Dividend Taxation Communication<sup>24</sup>. On the basis of the case law of the Court of Justice of the EU this Communication concluded that dividends which leave a Member State (outbound dividends) cannot be taxed higher than dividends which stay in the country (domestic dividends). Further to the Communication the Commission opened a large number of infringement cases against those Member States that discriminated against foreign IORPs. Some Member States have already changed their law and eliminated the discriminations; a few others have been referred to the Court of Justice of the EU.

## 2.9. Statistics

Several EU bodies are involved in the statistical work for pensions. The purpose of the Indicator Sub-Group (ISG) of the Social Protection Committee (SPC) is to collect data on coverage and contribution rates. Eurostat collects data on social protection benefits (ESSPROS), disposable income (EU-SILC) and pension funds (Structural Business Statistics). The European Central Bank (ECB) collects statistics on the volumes (stocks and flows) of the assets and liabilities of pension funds and insurance corporations. The future European Systemic Risk Board (ESRB) is likely to step up its data requirements for financial stability purposes. The European Commission also participates in international work and has engaged in a joint project with the OECD to collect statistics on the adequacy of benefits from private pension provision.

In the future, retired people will receive their pensions from at least two, if not more, sources (and pillars). Thus, the current statistical frameworks - even if improved - will not be able to provide comprehensive and reliable information on regular pension-type revenues. It is essential, therefore, to define precisely what sorts of regular receipts can be considered as a pension, how different revenue streams may be added, and how risks related to some resources are to be measured.

## 2.10. EU-wide reviews

A study carried out for the European Commission in 2007<sup>25</sup> provided an insight into the range of products in which retail clients invest when they save for the long term: namely term bank

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<sup>22</sup> *Commission vs. Belgium*, Case C-522/04, *Commission vs. Denmark*, Case C-150/04.

<sup>23</sup> Case C-522/04.

<sup>24</sup> Dividend taxation of individuals in the Internal Market, COM(2003) 810 final.

<sup>25</sup> "The EU Market for Consumer Long-Term Retail Savings Vehicles" (BME Consulting, 15 November 2007); available at [http://ec.europa.eu/internal\\_market/finances/docs/cross-sector/study\\_en.pdf](http://ec.europa.eu/internal_market/finances/docs/cross-sector/study_en.pdf)

deposits, securities, investment funds, life assurance contracts and funded pension schemes. It illustrated the degree of integration in this market in the EU. The study also provided a snapshot of the drivers of consumer behaviour, in terms of both reasons for saving and choice of vehicle.

A more recent study carried out for European Commission in 2009<sup>26</sup> indicated that 13 Member States have some form of Equity Release Scheme (Austria, Bulgaria, Finland, France, Germany, Hungary, Ireland, Italy, Netherlands, Romania, Spain, Sweden, UK). The most significant markets are the UK, Ireland and Spain. ERS account for less than 0.1% of the EU mortgage market. The market for Loan model schemes is larger than that for Sale model schemes: the estimated volume of Loan model schemes is EUR 3.3 billion (50 000 contracts), whereas that for Sale model schemes is EUR 1.4 billion (with just under 20 000 contracts).

### 3. CEIOPS MAPPING OF EU PRUDENTIAL REGULATION

The statutory pay-as-you-go (PAYG) pension, an unfunded defined-benefit scheme, is the basis for the overall pension income for most EU citizens. A number of Member States have supplemented the statutory pension scheme with a funded tier in the form of a defined-contribution scheme, which is administered in many cases by a private financial institution. Other Member States have, instead of or in addition to these schemes, set up unallocated demographic reserve funds to support statutory PAYG pensions.

In many Member States the statutory pension is supplemented by occupational pensions and individual pensions. In some instances occupational pensions are offered on a PAYG basis or through book reserves on the employer's balance sheet, although the bulk is provided through funded schemes operated by pension funds or insurance undertakings (e.g. group insurance contracts). Individual pensions are arranged by contract directly with a product provider - generally a life assurance company or a pension fund. An individual's contributions are accumulated and invested, and the resulting fund is subsequently used to provide pension benefits for the individual.

Participation in occupational and individual schemes may be mandatory or voluntary, although increasingly Member States are allowing the possibility of opting-out from mandatory pension schemes.

Mirroring the disparate developments in Member States, the distinction between the various pension pillars has also become less straight-forward in recent years. At the request of the Commission, CEIOPS has carried out a detailed mapping exercise in 2009 to clarify the EU prudential regulation that applies to the different pension schemes/institutions. The EU Directives considered were Directives 2003/41/EC (IORP), 2002/83/EC (Life) and 85/611/EEC (UCITS). Some Member States also referred to Directives 2006/48/EC (Banking) and Directive 93/22/EEC (Investment Services), repealed by Directive 2004/39/EC (MiFID). The remainder of this section summarises the main results of the mapping. The more detailed information is provided in Table 1.

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<sup>26</sup> "Study on Equity Release Schemes in the EU" (Institut für Finanzdienstleistungen, January 2009); available at: [http://ec.europa.eu/internal\\_market/finservices-retail/docs/credit/equity\\_release\\_part1\\_en.pdf](http://ec.europa.eu/internal_market/finservices-retail/docs/credit/equity_release_part1_en.pdf)

Moreover, on the basis of this mapping, the Commission, with the collaboration of CEIOPS, is conducting a further exercise aiming to review data on private pension products. Preliminary results of this exercise indicate that occupational products reach a total of roughly €3.6 trillion, of which €2.6 trillion in IORPs, €0.5 trillion in insurance products and €0.5 trillion in other investment vehicles. Personal pension products account for around €1.7 trillion, of which €0.7 trillion in insurance products, €0.9 trillion in other investment vehicles and a further €8 billion in IORPs.

### 3.1. Statutory funded pension schemes/institutions

Statutory funded pension schemes/institutions, whether mandatory or not, are covered by EU Regulations 883/2004 and 987/2009 (replacing Regulations 1408/71 and 574/72 since 1 May 2010). According to the mapping, they exist predominantly in the Member States that joined the EU in the period 2004-2007. Employers can pay contributions into the schemes in the case of EE.

There are no EU prudential rules for the pension funds that are part of statutory funded pension schemes/institutions. Most of the Member States concerned therefore do not apply EU prudential regulation. Some Member States have, however, applied the Life or UCITS Directive to these pension funds. The mapping has highlighted the following situation:

- IORP Directive: n/a
- Life Directive: EE
- UCITS Directive: EE
- Banking Directive: n/a
- Investment Services (MiFID): n/a
- No EU prudential rules: BG, LV, LT, HU, PL, RO, SK

### 3.2. Occupational pension schemes/institutions

The IORP Directive covers many occupational pension schemes/institutions, but not all. The Directive has been implemented by almost all the Member States, with only a few exceptions. Article 4 of the IORP Directive, allowing many of the rules in the IORP Directive to apply to the occupational retirement provision business of life assurance undertakings, is used in three Member States. The IORP Directive explicitly excludes book reserve and PAYG schemes from its scope. In many Member States there are also occupational pension schemes that are subject to the Life or UCITS Directives. The mapping has highlighted the following situation:

- IORP Directive:
  - Implemented with a few exceptions.
  - Article 4: FR, LT, SE
- Life Directive: BE, DK, DE, EL, LU, NL, AT, PL, PT
- UCITS Directive: PL
- Banking Directive: n/a

- Investment Services (MiFID): n/a
- No EU prudential rules:
  - book reserves: BE, DE, IT, CY, LU, AT, PT, SE
  - PAYG: CY

### **3.3. Individual pension schemes/institutions**

Individual pension schemes/institutions are covered by a broad range of directives: Life, UCITS, banking and investment services (MiFID). The IORP Directive is also used by some Member States that have chosen to apply the IORP Directive to individual pension schemes in the national transposition (e.g. RO).

There are, however, also a number of individual pension schemes/institutions that are not covered by any EU prudential regulation. These are voluntary supplementary pensions in the form of individual DC schemes in seven Member States (BG, CZ, ES, HU, MT, PT, SI). In some of these Member States, the employers can act as a third person to contribute to personal accounts (BG, CZ), while in another it is common practice for employers to pay contributions on behalf of the member (HU). By contrast, in some Member States (ES, MT), employers are not allowed to contribute to personal accounts.

The mapping has produced the following situation:

- IORP Directive: IT, LV, RO
- Life Directive: BE, DK, DE, EE, IE, ES, FR, IT, CY, LT, LU, HU, NL  
AT, PL, PT, SE, UK
- UCITS Directive: BE, DE, EE, LT, LU, HU, PL, PT
- Banking Directive: DE, LU, HU, PL
- Investment Services (MiFID): PL
- No EU prudential rules: BG, CZ, ES, HU, MT, PT, SI

**Table 1 – EU regulation applicable to pension institutions/schemes**

*Important note: This table was prepared by CEIOPS and the information reflects the situation prevailing in May 2010. It has however been the decision of each member of CEIOPS as to what kind of institution, scheme or product is included in the table. The national information is therefore not necessarily comprehensive. Important country-specific notes are contained at the end of this table.*

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
<b>BE</b>	IRP (Institutions de Retraite Professionnelle)/  IBP (Instelling voor Bedrijfspensioenvoorziening)	until 01/01/2012: ASBL/VZW  or AAM/OVV  As from 01/01/2007: OFP	non-profit organisation  or mutual insurance association  Organisation for Financing Pensions		DB, DC or mixed	Voluntary (b)	Occupational (c)	IORP
	entreprise d'assurance/verzekeringsonderneming  or société coopérative/coöperatieve vennootschap  or AAM (Association d'Assurances Mutuelles)/  OVV (Onderlinge Verenigingsvereniging)	société par actions/vennootschap op aandelen  or société coopérative/coöperatieve vennootschap  or AAM (Association d'Assurances Mutuelles)/  OVV (Onderlinge Verenigingsvereniging)	limited partnership with a share capital  cooperative partnership  mutual insurance association		same as above through group insurance  + individual life insurance	voluntary	Occupational or individual	Life
	fonds d'épargne-pension / pensioenspaarfonds	OPCVM/ICBE: SICAV/BEVEK (d)	UCITS: open-end investment company		individual pensions savings	voluntary	individual	UCITS

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Book reserves				DB/DC (e)	voluntary	occupational	Excluded from IORP Directive based on Art. 2.2.(e)
<b>BG</b>	Пенсионно-осигурително дружество	Акционерно дружество	Joint Stock Company	No	DC	Voluntary (a)	Occupational (b)	IORP
	Пенсионно-осигурително дружество	Акционерно дружество	Joint Stock Company	No	DC	Voluntary (a)	Individual (c)	No EU prudential legislation
	Пенсионно-осигурително дружество	Акционерно дружество	Joint Stock Company	No	DC	mandatory	Statutory funded (individual) (d)	Regulation 1408/71 and 574/72
<b>CZ</b>	penzijní fond	akciová společnost	joint-stock company	No	DC	voluntary	Individual, although occupational elements possible (a)	No EU prudential regulation.
<b>DK</b>	Firmapensionskasse	Pensionskasse	Company Pension Fund	No	DC or DB	Mandatory	occupational	IORP
	Livsforsikrings selskab	Aktieselskab	Life Insurance Company	No	DC or unit-linked	Voluntary/Mandatory (a)	Occupational/individual	Life
	Tværgående pensionskasse	Pensionskasse	General Pension Funds	No	DC or unit-linked	Mandatory		Life
<b>DE</b>	Pensionskasse	Aktiengesellschaft	Joint-stock company	No		Voluntary (a)	occupational	IORP
		Versicherungsverein auf Gegenseitigkeit	Mutual insurance association					
		Körperschaft des öffentlichen Rechts	Corporation under public law					
		Anstalt des öffentlichen Rechts	Institution under public law					

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Pensionsfonds (b)	Aktiengesellschaft Pensionsfondsverein auf Gegenseitigkeit	Joint-stock company Mutual pension fund association	No		Voluntary (a)	Occupational	IORP
	Direktzusage (book-reserve schemes) (b)			No		Voluntary (c)	Occupational	Excluded from IORP Directive based on Art.2.2(e)
	Unterstützungskasse (b)	Gesellschaft mit beschränkter Haftung Eingetragener Verein Stiftung	Limited liability company Registered association Foundation	No		Voluntary (c)	Occupational	Excluded from IORP Directive based on Recital 16 and Art. 2.2(d)
	Lebensversicherungsunternehmen (Direktversicherung – direct insurance) (d)	Aktiengesellschaft Versicherungsverein auf Gegenseitigkeit Körperschaft des Öffentlichen Rechts Anstalt des öffentlichen Rechts	Joint-stock company Mutual insurance association Corporation under public law Institution under public law	No		Voluntary (a)	Occupational	Life
	Altersvorsorgevertrag (contract)			No	Personal pension schemes	Voluntary	Individual	Life, Banking, UCITS
	Basisrentenvertrag (contract)			No	Personal pension schemes	Voluntary	Individual	Life, Banking, UCITS
<b>EE</b>	Vabatahtlik pensionifond	Lepinguline fond	Contactual fund	No	DC	Voluntary	Individual	UCITS+extra requirements



	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Kohustuslik pensionifond	Lepinguline fond	Contactual fund	No	DC	Mandatory	Statutory funded (individual)	UCITS+extra requirements
	Elukindlustusselts	Aktsiaselts	Joint Stock Company	No	DB or DC (Unit-linked)	Voluntary	Individual	Life
	Elukindlustusselts	Aktsiaselts	Joint Stock Company	No	DB	Mandatory	Statutory funded (individual)	Life
<b>IE</b>	Occupational Pension Scheme (a)	Trust	Trust	No	DB/DC/Hybrid schemes and Trust Retirement Annuity Contracts	Voluntary	Occupational	IORP
	Personal pension	Contract	Contract	No	Individual Retirement Annuity Contracts /Personal Pensions	Voluntary	Individual	Life
	Personal Retirement Savings Accounts	Contract	Contract	No	Individual retirement savings accounts	Voluntary	Individual	Life
<b>EL</b>	TAMEIA ΕΠΑΓΓΕΛΜΑΤΙΚΗΣ ΑΣΦΑΛΙΣΗΣ (Τ.Ε.Α.)	Νομικά πρόσωπα ιδιωτικού δικαίου (ν.π.ι.δ.) μη κερδοσκοπικού χαρακτήρα.	Non-profit private entities with legal personality.	No	Occupational Insurance Funds (DC) (a)	Voluntary	Occupational	IORP (b)
	ΑΣΦΑΛΙΣΤΙΚΕΣ ΕΠΙΧΕΙΡΗΣΕΙΣ				Group Insurance Contracts (c)			Life (d)
<b>ES</b>	Fondo de Pensiones de empleo	Fondo de Pensiones de empleo	IORP	No	DC, DB, or mixed	Voluntary	occupational	IORP
	Fondo de Pensiones personal	Fondo de Pensiones personal	Personal Pension Fund	No	Individual and associated pension scheme	Voluntary	Individual (a)	No relevant prudential EU legislation applicable (b)

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Seguros colectivos	Collective Life Insurance	Collective Life Insurance Contract	No	DB	Voluntary	occupational	Life (in general)
	PPSE (Employer Social Prevision Plan)	Collective Life Insurance	Collective Life Insurance Contract	No	DB	Voluntary	occupational	Life (in general)
	PPA (Prevision Plan Assured)	Individual Life Insurance	Individual Life Insurance Contract	No	DB	Voluntary	Individual	Life (in general)
<b>FR</b>	assureur vie	Société anonyme  Or  Société d'assurance mutuelle	Stock company  Or  Mutual insurance company		DC/DB		Occupational or individual (a)	IORP (Art. 4) or Life (b)
	Institution de prévoyance	Institution de prévoyance	Paritarian institution ruled by the "social protection code"		DC/DB		Occupational or individual (a)	IORP (Art. 4) or Life (b)
	« mutuelle »	Mutuelle du code de la mutualité	Mutual company ruled by a specific code		DC/DB		Occupational or individual (a)	IORP (Art. 4) or Life (b)
<b>IT</b>	Fondi pensione negoziali (a)	Associazione/fondazione	Association/foundation	No	DC	Voluntary opting-out	Occupational	IORP
	Fondi pensione aperti (b)	Patrimonio di destinazione autonomo istituito da una società finanziaria in modo separato rispetto al patrimonio della stessa	An autonomous pool of assets instituted by a financial company separately from its own assets	No	DC	Voluntary opting-out/Voluntary	occupational/Individual	IORP

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Fondi pensione preesistenti autonomi (c)	Associazione/fondazione	Association/foundation	No	DC, DB closed to new members	Voluntary opting-out	occupational	IORP
	Fondi pensione preesistenti (non autonomi) (d)	Fondi pensione interni ai bilanci delle società promotrici	Book reserve	No	DC, DB closed to new members	Voluntary opting-out	occupational	Excluded from IORP Directive based on Art. 2.2(e)  (d)
	Enti privati di previdenza obbligatoria dei liberi professionisti (e)	Associazione/fondazione	Association/Foundation	Yes	DB/DC	Mandatory	Statutory funded	Regulation 1408/71
	Piani pensionistici individuali (Pip) (f)	Patrimonio di destinazione autonomo istituito da una compagnia di assicurazione in modo separato rispetto al patrimonio della stessa	An autonomous pool of assets instituted by an insurance company separately from its own assets	No		Voluntary	Individual	Life
<b>CY</b>	Ταμεία Προνοίας	Νομικά Πρόσωπα Ιδιωτικού Δικαίου	Provident Funds - Private Entities with Legal Personality	No	DC/DB set up via collective agreements	Mandatory or Voluntary (determined by the rules of each provident fund)	Occupational (a)	IORP
	Ταμεία Συντάξεως	Νομικά Πρόσωπα Ιδιωτικού Δικαίου	Pension Funds – Private Entities with Legal Personality	No	DB set up via collective agreements	Mandatory	Occupational (b)	IORP
	Επενδυτικά Ατομικά Σχέδια Ζωής	Ασφαλιστικό Συμβόλαιο	Insurance Contract	No	Unit Linked Personal Life Contracts	Voluntary Opt Out	Individual	Life
	Σχέδια Συντάξεως (c)		Pay as you go pension schemes	No	DB	Mandatory	occupational	Excluded from the IORP Directive

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Σχέδιο Φιλοδωρήματος (d)		Book reserve	No	DB	Mandatory	occupational	Excluded from the IORP Directive
LV	Privātais pensiju fonds	Akciju sabiedrība	Stock company	No	DC/DB	voluntary	Occupational and individual (a)	IORP (b)
	N/A		State funded pension scheme (c)		DC	Mandatory, voluntary	Statutory funded	Regulation 1408/71
LT	Pensijų asociacija	Asociacija	Association		DC, DB (a)	Voluntary	Occupational	IORP
	Gyvybės draudimo įmonė, vykdanči profesinių pensijų kaupimo veiklą	Akcinė bendrovė/ Uždaroji akcinė bendrovė/Europos Bendrovė	Public limited liability company/Private limited liability company/European company ( <i>Societas Europaea</i> )		Life assurance contract under which occupational pensions are accumulated	Voluntary	Occupational	IORP (Art. 4)
	Valdymo įmonė	Akcinė bendrovė/Uždaroji akcinė bendrovė	Public limited liability company/Private limited liability company/	No	DC	Voluntary	Statutory funded	Excluded from IORP Directive based on Art. 2.2(a)
	Gyvybės draudimo įmonė	Akcinė bendrovė/ Uždaroji akcinė bendrovė/Europos Bendrovė	Public limited liability company/Private limited liability company/European company ( <i>Societas Europaea</i> )	No	DC	Voluntary	Statutory funded	Excluded from IORP Directive based on Art. 2.2(a)
	Valdymo įmonė	Akcinė bendrovė/Uždaroji akcinė bendrovė	Public limited liability company/Private limited liability company/		DC	Voluntary	individual	UCITS (b)

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Gyvybės draudimo įmonė	Akcinė bendrovė/ Uždaroji akcinė bendrovė/Europos Bendrovė	Public limited liability company/Private limited liability company/European company ( <i>Societas Europaea</i> )		Life assurance contract	Voluntary	individual	Life
LU	Fonds de pension (CSSF) (a)	Sepcav and assep	Pension savings companies with variable capital and pension savings associations	No		voluntary	Occupational	IORP
	Fonds de pension (CAA) (b)	Association d'assurances mutuelles, société coopérative, société coopérative organisée comme une société anonyme ou association sans but lucratif	Mutual insurance associations, co-operative companies, co-operative companies organized as a public limited company, charitable associations	No		voluntary	Occupational	IORP
	Assurances de groupe	Entreprise d'assurances / Contrats d'assurance groupe	Insurance company/ Group insurance contracts	No		voluntary	Occupational	Life
	Régime interne de pension	NA Provisions au bilan	NA Book-reserve schemes	No		voluntary	Occupational	No relevant prudential EU legislation applicable

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Contrat de prévoyance-vieillesse	Produits de prévoyance-vieillesse représentés par des produits d'assurance ainsi que par des produits bancaires investis dans des organismes de placement collectif agréés	Pension products represented by insurance products as well as by banking products invested in licensed units for collective investment	No		voluntary	Individual	Life, Banking, UCITS (c)
<b>HU</b>	magánnyugdíj pénztár	magánnyugdíj pénztár	Association-like special legal form	No	DC (a)	mandatory	Statutory funded (individual)	Regulation 1408/71
	önkéntes nyugdíjpénztár	önkéntes nyugdíjpénztár	Association-like special legal form	No	DC	voluntary	Individual (b)	No relevant prudential EU legislation applicable
	Nyugdíjbiztosítás (Life Insurance company)	- életbiztosító rt. - biztosító egyesület	- joint-stock company - association	No	Pension insurance	voluntary	Individual	Life
	foglalkoztatói nyugdíjszolgáltatás	Foglalkoztatói nyugdíjszolgáltató rt.	Joint stock company	No	DB/DC	voluntary	Occupational	IORP
	nyugdíjelőtakarékosági számla (c)		pension saving account	No	DC	voluntary	Individual	Banking, UCITS (c)
<b>MT</b>	Occupational Retirement Scheme	Trust  Contractual	Trust  Contractual (a)	No	Trust Deed  Contract between the employer and the Retirement Scheme Administrator	Voluntary (b)	occupational	IORP (c)

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Personal Retirement Scheme	Trust Contractual	Trust Contractual (a)	No	Trust Deed  Contract between member and the Retirement Scheme Administrator		Individual (d)	No EU prudential legislation
<b>NL</b>	Pensioenfond ( 'pension fund ' )	Stichting	Foundation (a)	No		Mandatory for industry-wide schemes  Voluntary opt-out for company schemes	Occupational (b)	IORP
	Verzekeraar ( 'insurance company ' or 'insurer ' )	Naamloze vennootschap	Public limited company	No		Voluntary	Occupational (b)/individual	Life
<b>AT</b>	Pensionskasse	Aktiengesellschaften	Joint-stock company	No	DB and DC	voluntary	occupational	IORP
	Betriebliche Kollektivversicherung	Aktiengesellschaften, Versicherungsverein auf Gegenseitigkeit and SE	Joint-stock company, mutual insurance association and SE	No	DB and DC	voluntary	occupational	Life
	Lebensindividual- und Gruppenrentversicherung	Aktiengesellschaften, Versicherungsverein auf Gegenseitigkeit and SE	Joint-stock company, mutual insurance association and SE	No	DB and DC	voluntary	Individual	Life
	Direkte Leistungszusagen (Book-reserve schemes)			No	DB/DC	voluntary	Occupational	Excluded from IORP Directive based on Art 2.2(e)

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
PL	pracowniczy fundusz emerytalny	fundusz emerytalny (osoba prawna)	occupational pension fund (in Polish legal framework is registered as separate legal entity)	No	DC	voluntary	Occupational (a)	IORP (b)
	zakład ubezpieczeń na życie	spółka akcyjna	joint-stock company	No	DC	voluntary	Occupational (a)	Life
	fundusz inwestycyjny otwarty	fundusz inwestycyjny	investment fund (in Polish legal framework is registered as separate legal entity)	No	DC	voluntary	Occupational (a)	UCITS
	zarządzający zagraniczny (foreign manager)		Not specified – all form of IORPs notified by relevant authorities from other Member States	No	DC	voluntary	Occupational (a)	IORP (c)
	Otwarty fundusz emerytalny	fundusz emerytalny (osoba prawna)	Open pension fund (in Polish legal framework is registered as separate legal entity)	No	DC	mandatory	Statutory funded	Regulation 1408/71



	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>Statutory funded</li> <li>occupational</li> <li>individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Indywidualne konta emerytalne	1) Fundusz inwestycyjny, 2) Zakład ubezpieczeń na życie, 3) Bank, 4) instytucja prowadząca działalność maklerską.	1) Investment fund -in Polish legal framework is registered as separate legal entity, 2) joint-stock company, 3) joint-stock company, 4) Limited company or joint-stock company	No	DC	voluntary	individual	1) UCITS 2) Life 3) Banking 4) ISD
PT	Fundos de pensões fechados (closed pension funds)	Fundos de pensões	Pension funds	No	DB / DC	Voluntary	occupational	IORP
	Adesões coletivas a fundos de pensões abertos (collective membership of open pension funds)	Fundos de pensões	Pension funds	No	DB / DC	Voluntary	occupational	IORP
	Contratos de seguro de grupo (group insurance policies)	Contratos de seguro	Insurance policies	No	DB / DC	Voluntary	occupational	Life
	Planos de poupança-reforma (saving-retirement schemes)	1) Fundos de pensões 2) Contratos de seguro 3) Fundos de investimento	1) Pension funds 2) Insurance policies 3) Investment funds	No	DC	Voluntary	individual	1) No relevant EU prudential regulation (a) 2) Life 3) UCITS

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Adesões individuais a fundos de pensões abertos (individual membership of open pension funds)	Fundos de pensões de	Pension funds	No	DC	Voluntary	individual	No relevant EU prudential regulation (b)
	Contratos de seguro individuais (individual insurance policies)	Contratos de seguro	Insurance policies	No	DC	Voluntary	individual	Life
	Planos de pensões financiados no balanço da empresa (book-reserve schemes)			No	DB/DC (c)	voluntary	occupational	Excluded from IORP Directive based on Art. 2.2(e)
<b>RO</b>	Administratorul unui fond de pensii administrat privat	Administratorul unui fond de pensii administrat privat - Societate pe actiuni	Administrator of a privately administered pension fund- joint stock company	No	hybrid DC (a)	Mandatory	Statutory funded (individual)	Regulation 1408/71
	Administrator de fonduri de pensii facultative	Administratorul de fonduri de pensii facultative - Societate pe actiuni	Administrator of voluntary pension funds - joint stock company	Yes	DC (b)	Voluntary	individual	IORP (c)
<b>SI</b>	Pokojninska družba	Delniška družba	Joint-stock company	No	DC	Voluntary opt-out	Occupational (a)	IORP
	Zavarovalnica	Delniška družba	Joint-stock company	No	DC	Voluntary opt-out	Occupational (b)	IORP

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Vzajemni pokojninski sklad	Vzajemni pokojninski sklad, upravjavci: banka, zavarovalnica, pokojninska družba	Mutual pension fund, managed by bank, insurance company, pension insurance company	No	DC	Voluntary opt-out, Mandatory for certain occupations	Occupational (c)	IORP
	Sklad obrtnikov in podjetnikov (SOP)	Sklad	Found	No	DC/DB	Voluntary	Individual	No relevant prudential EU legislation applicable to the pension product
SK	dôchodková správcovská spoločnosť	akciová spoločnosť	joint stock company	No	DC (personal, protected)	Voluntary	Statutory funded (individual)	Regulation 1408/71 and 574/72
	doplňková dôchodková spoločnosť	akciová spoločnosť.	joint stock company	No	DC (hybrid, unprotected)	Voluntary, in general (a)	Individual, in general (b)	IORP
FI	ETA-lisäeläkesäätiö	eläkesäätiö	company pension fund (independent legal entity)	No	DB	voluntary	occupational	IORP
	ETA-lisäeläkekassa	eläkekassa	industry-wide pension fund (independent legal entity)	No	DB	voluntary	occupational	IORP
SE	Livförsäkringsbolag	Aktiebolag	Proprietary life insurance company	No	DC/DB	Voluntary (a)	1) Occupational 2) individual (b)	1) IORP (Art. 4) 2) Life
	Livförsäkringsbolag	Ömsesidigt bolag	Mutual life insurance company	No	DC/DB	Voluntary (a)	1) Occupational 2) individual (b)	1) IORP (Art. 4) 2) Life
	Tjänstepensionkassa	Understödsförening	Occupational pension fund	No	DC/DB	Voluntary (a)	Occupational and individual	IORP

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Pensionsstiftelse (c)	Stiftelse	Pension foundation	No	None, investments only	Voluntary (a)	Occupational	IORP
	Särskild redovisning av pensionskuld (Book reserves) (d)			No	DB	Voluntary (a)	Occupational	Excluded from IORP Directive based on Art. 2.2(e)
<b>UK</b>	Occupational DB scheme	Trust	Trust (a)	No	DB	Voluntary	occupational	IORP
	Occupational DC scheme	Trust	Trust (a)	No	DC	Voluntary	occupational	IORP
	Occupational Hybrid scheme	Trust	Trust (a)	No	DB/DC (b)	Voluntary	occupational	IORP
	Personal pension scheme	Contract	Contract	No	DC	Voluntary	individual	Life
<b>IS</b>	Lífeyrissjóður	Sjóður	Fund	No	DB/DC	Mandatory and voluntary	Occupational (a) and individual	No EU prudential legislation
<b>LI</b>	Pension Funds (Pensionskasse)	Stiftung	Foundation	Yes	DB or DC collective foundation or captive foundation	Mandatory	Occupational (a)	Regulation 1408/71 and 574/72
	Pensions funds (Pensionsfonds)	Stiftung, Aktiengesellschaft, Europäische Aktiengesellschaft, Genossenschaft Europäische Genossenschaft	Foundation, Limited company, Societas europa, Cooperative society Societas Cooperativa Europaea	No	DB or DC biometric risk or not call for additional cover or not	Voluntary	Occupational (b)	IORP

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Insurance company (Versicherung sunternehmen , direkte Lebensversicherung)	Aktiengesellschaft, Genossenschaft	Limited company, Cooperative Society	No	DC or DB	Voluntary	Occupational	IORP (Art.4)
<b>NO</b>	Foretakspensjonsordninger	1) Pensjonskasse 2) Livsforsikrings-selskaper	1) Pension funds 3) Life insurance companies	No	DB	It is mandatory to have a DC or a DB scheme	occupational	1) IORP 2) Life
	Innskuddspensjonsordninger	1) Pensjonskasse 2) Innskuddspensjons-foretak 3) Livsforsikrings-selskaper 4) Banker 5) Forvaltningsse lskap for verdipapirfond	1) Pension fund, 2) Defined contribution pension undertakings , 3) Life insurance companies 4) Banks 5) Companies which manage securities funds	No	DC	It is mandatory to have a DC or a DB scheme	Occupational	1) IORP 2) IORP 3) Life 4) Banking 5) UCITS
	Individual pension schemes	1) Livsforsikrings selskaper 2) Banker 3) Forvaltningsse lskap for verdipapirfond 4) Pensjonskasse r	1) Life insurance companies 2) Banks 3) Companies which manage securities funds 4) Pension fund (e)	No	DC	Voluntary	Individual	1) Life 2) Banking 3) UCITS 4) IORP

	Types of the private pension institutions				Types of pension schemes	Mandatory / voluntary / voluntary opt-out	Source <ul style="list-style-type: none"> <li>• Statutory funded</li> <li>• occupational</li> <li>• individual</li> </ul>	EU regulation
	Domestic name	Legal form (domestic)	Legal form (English)	Art. 3? Y/N				
	Statens Pensjonskasse	Pension fund	Statens Pensjonskasse is a pension fund administering pension schemes for state employees and certain other groups of employees		DB	Mandatory	Occupational	Excluded from IORP directive based on Art. 2.2. (a) and/or (c)
	Book reserves (a)		Pension schemes based on contract where the benefits are paid by the employer/undertaking		Usually DB (b)	voluntary	Occupational	Excluded from IORP directive based on Art. 2.2. (e)
	Pensjonsfond (c)	pension fund			DB	Mandatory if a pension fund as mentioned is established	Occupational	Excluded from IORP directive based on Art. 2.2 (c) and/or (d)
		pension funds	pension schemes fixed by law for certain occupational groups (d)		DB	Mandatory	Occupational	Excluded from IORP directive based on Art. 2.2(c)
		pension fund sponsored by State	Pension fund for medical practitioners		DB	Mandatory	Occupational	Excluded from IORP directive based on Art. 2.2(c)
		pension funds sponsored partly by the State	Pension funds administering early retirement schemes		DB	Voluntary	Occupational	Excluded from IORP directive based on Art. 2.2(c)

Note: The column "Art. 3? Y/N" indicates whether or not Article 3 of the IORP Directive applies. This article specifies that institutions for occupational retirement provision which also operate compulsory employment-related pension schemes which are considered to be social-security schemes covered by Regulations (EEC) No 1408/71 and (EEC) No 574/72 shall be covered by the IORP Directive in respect of their non-compulsory occupational retirement provision business.

### Country-specific notes to the table:

### **Belgium (BE)**

a) The legal forms possible until 01/01/2012 are: ASBL (Association Sans But Lucratif)/VZW (Vereniging Zonder Winstoogmerk), or AAM (Association d'Assurances Mutuelles)/OVV (Onderlinge Verenigingsvereniging). The new legal form since 01/01/2007 is the OFP (Organisme de Financement de Pensions/Organisme voor de Financiering van Pensioenen).

b) Voluntary opt-out in some industry-wide schemes under certain conditions.

c) Scope of schemes: employer, industry-sector or self-employed (some are organised by profession but not necessarily); an IORP may manage several types of schemes with different scopes.

d) Organisme de placement collectif en valeurs mobilières (OPCVM) / instelling voor collectieve belegging (ICBE): organismes de placement collectif publics à nombre variable de parts (SICAV) / openbare instellingen voor collectieve belegging met veranderlijk aantal rechten van deelneming (BEVEK).

e) The scope is limited to providing pension benefits to company managers.

### **Bulgaria (BG)**

(a) Each insured person in a voluntary pension fund has an individual account in which his/her personal contributions are accumulated. In the same personal account contributions can be made by employers or third persons with prior consent from the insured person.

(b) The occupational pension schemes are managed within pension funds which are legal persons. The pension funds are established and managed by pension insurance companies, which are joint stock companies. The pension insurance companies manage separate pension funds for voluntary occupational schemes.

(c) The individual pension schemes are managed within pension funds which are legal persons. The pension funds are established and managed by pension insurance companies, which are joint stock companies. The pension insurance companies manage separate pension funds for voluntary individual schemes.

(d) The mandatory pension schemes are managed within pension funds which are legal persons. The pension funds are established and managed by pension insurance companies, which are joint stock companies. The pension insurance companies manage separate pension funds for mandatory schemes (universal and professional pension funds).

### **Czech Republic (CZ)**

a) This product is based on an individual contract that can be concluded regardless of the client's occupational status. However, there can be some occupational element in the sense that an employer can act as a third person contributing to the client's account. In 2008, this was the case for approximately 25% of clients.

### **Denmark (DK)**

a) For life insurance companies participation is mandatory and the scheme belongs to the occupational pillar when the scheme is part of a pension plan in a company.

### **Germany (DE)**

a) In general voluntary. In some areas, there are collective agreements providing for obligatory occupational retirement provisions or financial incentives for employees for deferred compensation.

b) The insolvency coverage by the PSVaG (Pensions-Sicherungs-Verein Versicherungsverein auf Gegenseitigkeit) applies to this type of occupational retirement provisions (insolvency of the employer).

c) In general voluntary. In some areas, there are collective agreements providing for obligatory occupational retirement provisions.

d) Under certain circumstances, the insolvency coverage by the PSVaG (Pensions-Sicherungs-Verein Versicherungsverein auf Gegenseitigkeit) applies to this type of occupational retirement provisions (insolvency of the employer).

### **Ireland (IE)**

a) The pension scheme is the institution for occupational retirement provision. Legal separation of pension fund assets from all other assets is achieved via the trust mechanism under which all pension schemes are set up.

#### **Greece (EL)**

a) Occupational Insurance Funds are independent legal entities. They are established on a voluntary basis in each company or sector(s) of employment on the initiative either of employees or employers or through an agreement between employees and employers as well as on the initiative of self-employed or independent professionals or farmers or their associations. Depending on the type of arrangement, Occupational Insurance Funds can provide benefits in kind or in cash, in the form of annuity or as a lump sum. Occupational Insurance Funds that provide retirement benefits operate on a funded basis (DC pension schemes).

b) In addition, also Directive 98/49/EC (safeguarding the supplementary pension rights) and Directive 2006/54/EC (equal opportunities) apply.

c) Group Insurance Contracts concluded between the employer and the insurance company in the sectors VII "management of group pension funds" or IX "works similar to social security".

d) In addition, Directive 98/49/EC (safeguarding the supplementary pension rights) applies.

#### **Spain (ES)**

a) Employers cannot pay contributions on behalf of members into this scheme.

b) The national legislation applicable is the Pension Plan and Fund Act (Texto Refundido de la Ley 8/1987, de regulación de Planes y Fondos de Pensiones) of 29 November 2002.

#### **France (FR)**

a) All these institutions are able to sell: (i) occupational pension schemes, in particular "Article 83" schemes (defined-contribution), "article 39" schemes (defined-benefit) or "contrats Madelin" schemes (defined-contribution); or (ii) individual life insurance (individual pension savings).

b) For occupational retirement provision, the institution can decide about the regulatory framework: life directive or IORP directive, with application of its article 4. The institution has to ask for a specific agreement if it wants to use the IORP directive. For individual retirement provision, the life directive applies.

#### **Italy (IT)**

a) Independent legal entity set up as a result of an agreement between employers and trade unions at industry level (also company, group, or regional funds are possible and have in fact been instituted).

b) Pension funds instituted by financial intermediaries (banks, insurance companies, etc) as segregated assets. They can host both occupational and personal schemes.

c) Pension funds instituted before 1993 as an independent legal entity.

d) Non-autonomous pension funds instituted before 1993 as book reserves within the balance sheet of an employer. When the company that sets up the pension fund is a bank or an insurance, which is the typical case, the banking directive or insurance directive applies.

e) Independent private entities operating social security schemes for several categories of self-employed, professional workers (such as lawyer, etc.).

f) Personal retirement plans based on individual life insurance companies.

#### **Cyprus (CY)**

a) There are company provident funds and industry-wide provident funds, which provide lump sum benefits.

b) There are employees' pension funds (private companies, semi public organizations and local authorities) and pension funds for self employed (advocates and doctors).



- c) These schemes have no legal personality. They are pay as you go pension schemes that provide a lump sum benefit and a monthly benefit for life.
- d) These schemes have no legal personality. They are book reserve retirement bonus schemes that provide a lump sum benefit.

#### **Latvia (LV)**

- a) There are closed pension funds which provide only occupational pensions and open pension funds which are allowed to operate both occupational and individual pensions.
- b) In addition, Directive 98/49/EC (safeguarding the supplementary pension rights) applies.
- c) This scheme is part of the state pension and contributions paid to the scheme are part of the social tax. The scheme is operated by the State social security agency. The assets of the scheme are managed by private asset managers (they are not IORPs). State funded pension scheme could be treated as part of the funded tier of statutory pensions.
- d) Voluntary for those socially insured persons who were at age between 30 and 45 at 01.07.2001.

#### **Lithuania (LT)**

- a) DB schemes shall be implemented only for individuals who are not subject to the Lithuanian social security and labour legislation, i.e. in case of cross-border activities.
- b) No relevant prudential EU legislation applicable to the pension product. However, Directive 85/611/EEC (UCITS) is applied for the providers.

#### **Luxembourg (LU)**

- a) Authorised and supervised by CSSF.
- b) Authorised and supervised by Commissariat aux Assurances.
- c) No relevant prudential EU legislation applicable to the pension product. To the provider: Directive 2002/83/EC for underlying insurance contracts, Banking Directive 2006/48/EC and UCITS directive (2001/108/EC).

#### **Hungary (HU)**

- a) Since 1.1.2010, there is a performance guarantee equal to inflation.
- b) Members are obliged to pay contribution. However the employer has the possibility to pay contribution on behalf of the member.
- c) This is a special saving account with tax incentives. There is no relevant prudential EU legislation applicable to the pension product. To the provider: Banking Directive 2006/48/EC and UCITS directive (2001/108/EC).

#### **Malta (MT)**

- a) A Retirement Scheme of a contractual nature consists of a separate pool of assets with no legal personality with the purpose of providing retirement benefits.
- b) Currently the pension system in Malta is still based on state pension provisioning.
- c) In addition, Directive 98/49/EC (safeguarding the supplementary pension rights) applies.
- d) An employer cannot contribute to Personal Retirement Schemes that may be established in terms of the current legislation. These Personal Retirement Schemes would be funded solely by contributions from the individual.

#### **Netherlands (NL)**

- a) Various legal forms are permitted, but pension funds almost exclusively prefer a Foundation.
- b) As for occupational pension schemes, the social and labour law and the information requirements are the same for insurers and pension funds.

### **Poland (PL)**

- a) There are four legal forms of occupational pension plans in Poland which could be freely chosen by an employer as the plan sponsor.
- b) “Pracowniczy fundusz emerytalny” is a Polish financial institution (fund) which operates in Poland and under the Polish law and its only two tasks are to accumulate and to administer contributions (premiums) from sponsoring undertakings for occupational pension purposes. This institution fulfils criteria for IORPs under Article 6a of the IORP Directive, so it can also operate cross-border in other Member States.
- c) “Zarządzający zagraniczny” is a foreign IORP which operates cross-border in Poland, in the meaning of the Polish law.

### **Portugal (PT)**

- a) These institutions are out of the scope of the IORP Directive because they are institutions for personal retirement provision. They are covered either by the Life or UCITS Directive or by the national pension fund legislation. The national pension fund legislation (one single Decree-Law), which always covered both occupational and individual schemes, was updated to reflect the requirements of the IORP Directive.
- b) These institutions are out of the scope of the IORP Directive because they are institutions for personal retirement provision. They are covered by national pension fund legislation. This legislation (one single Decree-Law), which always covered both occupational and individual schemes, was updated to reflect the requirements of the IORP Directive.
- c) Usually covers retirement benefits that are not tax qualified, e.g. early retirement programmes.

### **Romania (RO)**

- a) Personal, mandatory, minimum benefit established by Law, funded pension scheme with automatic enrolment.
- b) Voluntary, unprotected, funded pension scheme.
- c) In the national implementation.

### **Slovenia (SI)**

- a) May offer individual pension policies.
- b) May offer individual pension policies and life insurance.
- c) The mutual pension fund is not a legal entity. It may offer individual policies.

### **Slovakia (SK)**

- a) Mandatory for certain categories of employees (e.g. miners).
- b) Occupational for certain categories of employees (e.g. miners).

### **Sweden (SE)**

- a) Voluntary, though most occupational pension is mandatory through collective agreements.
- b) May offer life insurance (separate) as well.
- c) Linked to companies who have technical provisions as DB book reserves (outside of IORP directive scope)
- d) Companies recently try to set up book reserves even for DC schemes. The Swedish authorities have therefore initiated a discussion with the companies to begin in the near future. By law it is required that the book reserves must be secured. Normally this is done through credit insurance.

### **United Kingdom (UK)**

- a) The pension scheme is classed as the institution. As such there is no legal separation. Legal separation of pension fund assets from all other assets is achieved via the trust mechanism under which all pension schemes are set up.

b) Legally classified in UK as DB but has some guarantees and some money purchase elements.

#### **Iceland (IS)**

a) Pensions fund are in many cases based on profession, but some professions can choose in which pension fund they pay.

#### **Liechtenstein (LI)**

a) Beside the statutory pillar (old age, disability and survivors' insurance; AHV), Liechtenstein has also a mandatory occupational pillar to supplement the statutory pillar. For each employee for whom an employer has the obligation to pay contributions to the social insurance (statutory pillar), the employer has also the obligation to pay to an occupational DB or DC scheme (beside some exceptions; minimum contributions are stipulated by law). The relevant law is the "Gesetz vom 20. Oktober 1987 über die betriebliche Personalvorsorge" (BPVG).

b) For an employee having the obligation to pay contributions to the social insurance (statutory pillar), only voluntary contributions can be made into a pension plan according to the "Gesetz vom 24. November 2006 betreffend die Aufsicht über Einrichtungen der betrieblichen Altersversorgung" (Pensionsfondsgesetz; PFG), with which directive 2003/41/EC was implemented. The mandatory part has to be paid into a pension plan according to the BPVG.

c) Insurance company (Versicherungsunternehmen, direkte Lebensversicherung).

#### **Norway (NO)**

a) The use of this kind of schemes is unknown and probable very limited.

b) Usually DB schemes based on contract and usually limited to providing pension benefits to company managers.

c) All pensjonsfond are established according to tax regulation before 1968. Pensjonsfond are without guaranteed benefits. The benefits are derived according to certain rules laid down in tax law on the basis of the size of the fund. Benefits from these pension funds are paid primarily in order to compensate employers/pensioners born before 1917 for reduced benefits from State pension scheme.

d) The pension schemes are fixed by legislation.

e) It is legally possible for pension funds to offer individual pension schemes to members.