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SUMMARY OF CONSULTATION RESPONSES to the Green Paper "TOWARDS ADEQUATE, SUSTAINABLE AND SAFE EUROPEAN PENSION SYSTEMS"

INTRODUCTION

On 7 July 2010, the European Commission published a Green Paper "*Towards adequate, sustainable and safe European pension systems*" (COM(2010)365 Final).

The purpose of the Green Paper was to initiate a European debate on the key challenges concerning pensions, and how the EU can best support the efforts of Member States to ensure adequate, sustainable and safe pensions for their citizens both now and in the future.

The Green Paper accordingly launched an open consultation setting out 14 questions and asking any interested parties to respond by 15 November 2010.

The consultation was extremely successful, receiving almost 1700 responses from across the EU including around 350 from Member State governments, national parliaments, business and trade union organisations, civil society and representatives of the pension industry.

In addition, a resolution was adopted by the European Parliament on the Green Paper following intensive work from their Committees on Employment and Social Affairs, Economic and Monetary Affairs, Internal Market and Consumer Protection and Women's Rights and Gender Equality. The European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) also delivered opinions on the Green Paper.

The following text provides a summary of the responses, including the views expressed by the European Parliament, the EESC and the CoR, to the 14 questions, as well as the general comments from respondents. The text attempts to cover the full range of views expressed and aims to reflect the diversity of responses representing everything from a single individual's view to those of the European Parliament. The summary seeks to be a fair reflection of what the consultation has brought as a whole. The full text of all of the

responses received was published on the website of the Directorate-General for Employment, Social Affairs and Inclusion in December 2010¹.

GENERAL COMMENTS

General comments of the respondents to the Green Paper on Pensions were largely positive and welcomed its holistic approach and the commitment of the European Union to support Member States in their efforts to make pension systems adequate and sustainable and to promote a sustainable economic growth in the longer term.

Practically all the respondents agreed that Member States have different situations and priorities in relation to key issues such as the increasing of retirement age, the reform of labour markets and their pension systems. Hence pension issues must remain in the hands of Member States, although some coordination at EU level and some interaction with the EU is perceived as essential. Whilst highlighting common challenges, Member States responses and the European Parliament tended to underline the need to respect the principle of subsidiarity.

Many respondents welcomed that the Commission will continue to build on the "open method of coordination" (OMC) in order to share best practices on important issues such as the sustainability and adequacy of pension systems. Several respondents furthermore indicated that they think that the introduction of reinforced EU policy coordination on public finances can help boost long-term fiscal discipline and support the sustainability of national pension systems. In view of the interdependence of economies, the European Parliament called on Member States to coordinate their pension policies. Given that systemic pension reforms entail transformation costs, the European Parliament believes that these should be taken into account when assessing sustainability. Likewise, it requested that the full scale of unfunded direct public sector liabilities be explicitly disclosed.

The implementation of the Europe 2020 strategy on the reduction of poverty provides the policy framework for Member States to assess the role of their own national minimum pensions.

Regarding the public/private mix in pension provision, a number of Member States affirmed that they will continue to base their systems primarily on a statutory public pension scheme and highlighted that the development of private pension systems ranked fairly low among their priorities. Many others see it as a given that Member States will need to adapt pension systems to demographic ageing by lowering the role of the public tiers while boosting 2nd and 3rd pillar private schemes in order to alleviate some of the burden of ageing on public budgets. These respondents also called on the Commission not to undermine incentives for employers to continue to provide supplementary pension schemes. Moreover, the European Parliament wished to increase the supplementary pension coverage of workers in SMEs. Some respondents emphasised that while demographic ageing is a reality, its impact should not be overdramatized as it can be both assessed and anticipated.

¹ See <http://ec.europa.eu/social/main.jsp?catId=700&langId=en&consultId=3&visib=0&furtherConsult=yes>

Some respondents remarked that companies should offer more support for older workers, affording them real opportunities to continue working until the pensionable age. While focusing on active ageing, some key stakeholders also underlined the difficulties that young people have in breaking into the world of work due to the extensive use by companies of short-term contracts and part-time employment. Intergenerational solidarity was a theme in a number of contributions, including the ones from the European Parliament, the CoR and the EESC.

A number of respondents point to the necessity of ensuring the quality of jobs and wages in order to achieve adequate, sustainable and safe pensions for future generations and highlight that Member States and the social partners should take the necessary measures to credit and guarantee pension rights for periods of involuntary absence from the labour market. The European Parliament found that more attention to gender issues would have been helpful and called on the Commission and Member States to continue their efforts to ensure equal treatment of women and men in pensions.

Many emphasised that it would be too difficult to regulate pension schemes at EU level, and the EU's role therefore should be limited to setting the principles and objectives to which the Member States should refer when reforming their pension systems, and to encouraging Member States to ensure that citizens have access to adequate information about their pensions. A number of responses underlined that it would be very helpful if a common terminology and common criteria for classifying Member States' pension systems could be established. The European Parliament in particular called on the Commission to develop a comparative typology of Member State schemes.

The Green Paper on Pensions has furthered the debate about how pension funds should be regulated, including the solvency rules, and which role insurance companies should have in private retirement provision. Most conclude that insurance companies and pension funds offer different pension products and therefore they need different rules. Many respondents underscored that changes to the rules for funded pension schemes should not raise the costs of operating such schemes.

Some stakeholders support the idea in the Green Paper to restrict the pensions label to products with predefined characteristics, and a clear distinction between pensions and other financial products should be drawn in any current and future legislative initiatives.

Many respondents, including a number of Member States, believed it would be appropriate to update current minimum requirements for disclosure of information on any pension product, and that this must be accompanied by promoting financial education. At the same time, others suggested that it would be useful to provide a default option for people who do not have the knowledge or confidence to make their own investment choice.

Finally, some respondents highlighted that while cross-border schemes are important, EU regulation to facilitate these should not put extra burdens on the domestic schemes, which involve a far greater number of members.

QUESTION 1. HOW CAN THE EU SUPPORT MEMBER STATES' EFFORTS TO STRENGTHEN THE ADEQUACY OF PENSION SYSTEMS? SHOULD THE EU SEEK TO DEFINE BETTER WHAT AN ADEQUATE RETIREMENT INCOME MIGHT ENTAIL?

Most respondents acknowledged that the best way the EU can support Member States' efforts to strengthen the adequacy of pension systems is by continuing the social Open Method of Coordination (OMC), where the EU has a very useful role in monitoring developments, fostering effective exchange of information and mutual learning. This implies in particular continuing the work of developing and improving indicators, modelling tools and statistical data that allow the measurement of adequacy and the comparability of adequacy developments between Member States.

Some of the answers elaborated on how these analytical tools could be improved by refining assumptions and definitions and also, for example, by including non-financial factors that influence living standards of pensioners. Specific proposals included the idea of exploring the possibilities of building a European model for using administrative data on pension systems to analyse the impact of pension reforms (e.g. through micro-simulation models) and the development of statistical estimates to evaluate the adequacy of pensions in the light of their ability to prevent poverty in old age.

Many respondents mentioned the interlinkages between adequacy and sustainability and argued that they should be looked at together, both from an analytical and a policy-oriented point of view. Along these lines, improved cooperation between the different policy areas linked to pensions (i.e. the economic and social dimension) is often called for. The monitoring of the balance between sustainability and adequacy, the improvement of the coherence of indicators used by both sides and the need to report jointly about the two objectives are mentioned by some respondents. Also many respondents saw that the best way to answer the adequacy concerns was, just as for ensuring sustainability, promoting employment of all persons of working age (with particular attention to vulnerable groups). It was widely believed that to support both adequacy and sustainability the EU had to promote employment, longer working lives, economic growth and should implement reforms aimed at achieving the targets of the Europe 2020 strategy.

The majority of respondents argued that the EU must not seek to define what adequate retirement income is. They often mentioned that the issue of adequacy of pensions is a national prerogative, based on political choice of Member States, and thus it is a matter for the individual Member States to decide upon. Others mentioned that the concept of adequate retirement income was country-specific, as it is very closely related to the economic, financial and social situation of each country and therefore no common meaningful definition could be found. Furthermore, social security and pension systems were too disparate across Member States to seek a uniform definition of adequacy. Some others pointed to the technical difficulties of translating any possible common definition of adequacy into standardised indicators (i.e. the aggregation of many diverse factors into a meaningful indicator that could also reflect economic changes in different countries seemed unfeasible).

For some respondents, however, the EU should help Member States to guarantee that their pension systems deliver benefits that avoid the risk of poverty in old age and ensure a decent standard of living for everybody. Thus they argued for a stronger focus on minimum income for older people at EU level. For these respondents the issue of adequacy had been understood as closely linked to the definition of minimum standards that would prevent pensioners from falling below the poverty line.

Along the lines above, the European Parliament also *"does not consider it possible for the EU to set adequate pension levels, because the amount required is very dependent on specific circumstances in the Member States; calls however on the Commission to come up with guidance that makes it possible for Member States to establish criteria for a minimum level of pensions; considers that Member States should define adequacy as the condition required for older people to live a decent life"*. Only a minority of responses claim that the EU should actually define (and in some cases enforce) what an adequate retirement income is.

Moreover, the European Parliament *"stresses that, within the range of pension systems, diversification of pension income from a mix of public (first pillar) and work-related (in most cases second pillar) schemes, can provide a guarantee of adequate pension provision"*.

Many other respondents also highlighted that a diversified, multi-pillar approach in pension provision can play an important role in guaranteeing adequate retirement incomes in the future. Adequacy should not only rely on the public pension schemes, even if it is often claimed that these should remain the most important ones. While the fundamental role of pay-as-you-go systems in ensuring a decent standard of living for everybody and solidarity between and within generations is often appreciated, the supplementary role of funded forms of pension provision (eg occupational pensions) is also stressed by some.

Given the likely future pressures on public finances some respondents found a strong case for promoting the culture of pension savings and private pension provision and for improving understanding among the public of how private pensions can contribute to an adequate retirement income. On the other hand, other respondents argue that private pensions are not the panacea for the challenges faced by pension systems regarding adequacy. They ought to be reliable and stable to really contribute their part to adequate benefits for future pensioners and above all, workers should not be exposed to new risks when complementing their retirement provision by funded pension instruments. For that, EESC among others, call for a limitation of the financial risks by appropriate revision of the existing regulatory framework.

It should be noted that around 1000 of the submissions to the consultation are from individuals responding only to Question 1. The respondents are UK state pensioners typically living in Canada and complaining as part of a campaign about one specific issue (ie the lack of uprating of their UK state pension and its impact on pension adequacy), calling into question EU guidelines and legislation on pension rights².

QUESTION 2. IS THE EXISTING PENSION FRAMEWORK AT THE EU LEVEL SUFFICIENT FOR ENSURING SUSTAINABLE PUBLIC FINANCES?

There is very wide recognition of the necessity of ensuring sustainable public finances in the EU in general and in the Eurozone in particular. A large number of respondents consider that, among others, a key policy field for ensuring this vital objective is pension

² Whilst there are EU level rules on the co-ordination of social security (including social security pensions) designed to ensure the free movement of EU citizens, these only apply to intra-EU cross-border situations. The relationships with a third country like Canada are not covered by them.

policy. It has long-term repercussions for individuals as well as for the economies and the societies of the EU.

There is strong support for the integrated approach to pension policy adopted in the Green Paper. Many respondents stress that diversified pensions systems stand the best chance of providing sustainable, adequate and safe pensions. Moreover, pension policy issues are interlinked with other policy areas relevant for jobs and growth, which underlines the importance of an integrated approach. In this context, respondents generally pointed to the relevance of the Europe 2020 strategy for smart, sustainable and inclusive growth.

Most respondents perceive the Stability and Growth Pact as the major EU framework to this effect. Many also highlight the usefulness of the Open Method of Coordination when reviewing pension policy issues.

There are a large number of stakeholders that consider the current framework at EU level as largely appropriate for assessing the sustainability of public finances and for discussion and best practise exchange on pension policy issues. However, a widely-held consideration is that improvements within the existing framework would be beneficial for ensuring the sustainability of public finances, given that the fiscal positions crucially need to be strengthened in the aftermath of the crisis, and that the EU level has an important role in monitoring the situation and providing suggestions for action, including monitoring and reporting on implicit pension liabilities.

The European Parliament believes that account should be taken of public pension liabilities when assessing sustainability. It underlines that the sustainability of public finances requires the inclusion of total public and private debt in the assessment and points out that pension savings constitute something more than merely savings earmarked as pension.

As regards the Stability and Growth Pact (SGP), there is wide support of the Commission's initiative for reform of the Pact, as well as for the wider governance structure of policy coordination in the EU, as provided for by the legislative package proposed by the Commission on 29 September 2010.

A great many respondents welcome the Commission's initiative to improve the functioning of the SGP. It is seen as necessary both on account of the significant pressure on public finances brought about by the crisis and the longer term economic and budgetary trends. There is support for the Pact being a key component of the EU level framework insofar as it imposes restrictions on the conduct of fiscal policies and allows for regular reviews and policy adjustments where needed. At the same time, respondents support that pension policy continues to be determined at national level, as countries have different traditions and characteristics. One European respondent called for attention being paid to the social dimension and the local and regional dimension to the macro economic surveillance.

As regards the current review of the Pact, some respondents consider that sufficient account needs to be taken of impact of 'systemic' pension reforms on the budgetary position of the general government, and sustainability-enhancing reforms should not be discouraged. They consider this as an important contribution to encourage reforms of pension systems that go in the direction of developing a multi-pillar approach with prefunded elements with a view to improving long-term fiscal sustainability while at the same time ensuring that the restrictions on fiscal policy conduct imposed by the Pact are

respected. The European Parliament considers it regrettable that certain Member States reversed such pension reforms implemented in recent years.

As already underlined, some respondents stress that pension systems are matters that come within the exclusive competence, responsibility and decision making power of the Member States. They also recognise nevertheless that Member States' economies are interdependent and therefore call on the EU level to provide further input within existing EU level processes on pension policy issues. This includes a common set of definitions and a harmonised measures of pension indicators so as to pave the way for an informed and frank discussion of relevant pension policy issues and challenges at the EU level. Many underline that such additions should be developed within existing frameworks, which, in general, are deemed to be appropriate.

In terms of responses from individual EU citizens, a wide range of views emerges. Responses range from strong support of further policy coordination, including for pension policies and enforcement at EU level of stability-oriented macro and fiscal policy frameworks so as to ensure fiscal sustainability to calls for ensuring complete autonomy of pension policies, for less binding EU level rules for fiscal policy and more broadly of economic and social policies in general.

QUESTION 3. HOW CAN HIGHER EFFECTIVE RETIREMENT AGES BEST BE ACHIEVED AND HOW COULD INCREASES IN PENSIONABLE AGES CONTRIBUTE? SHOULD AUTOMATIC ADJUSTMENT MECHANISMS RELATED TO DEMOGRAPHIC CHANGES BE INTRODUCED IN PENSION SYSTEMS IN ORDER TO BALANCE THE TIME SPENT IN WORK AND IN RETIREMENT? WHAT ROLE COULD THE EU LEVEL PLAY IN THIS REGARD?

Pensionable age and effective retirement

In line with the majority of respondents, the European Parliament agrees that demographic ageing calls for longer working lives. The Parliament also recommends that priority should be given to ensuring that employees work until the statutory retirement age.

The majority of respondents agree that the effective retirement age should be increased so that the balance between working life and life spent in retirement is maintained. But all changes in pensionable ages need to be determined at the national level with involvement of the social partners, as the appropriate measures might depend on the national context.

Some respondents stress that increases in the pensionable age should be applied to both statutory and supplementary pension schemes. Others underline the signalling role of changes in the state pension age, and therefore expect such changes to lead to increases in the pensionable age of occupational schemes.

A few respondents maintain that longer working should be first pursued on a voluntary basis. Some suggest that the pension age should take into account life and healthy life expectancies of different professional groups. They argue that those who entered the labour market at an early age and those in arduous occupations should continue to be offered special treatment. Some respondents add that the number of professional groups that are entitled to a lower pensionable age should be significantly reduced, and periodic reviews of early exit entitlements should be carried out (e.g. for disability pensions).

According to the European Parliament and a number of respondents higher pensionable age and higher effective retirement age are two distinct issues. But there is a widespread recognition of a high degree of interdependence between the effective retirement age and the functioning of labour markets. Currently, a high proportion of the workforce retires early, due to lack of employment opportunities and inappropriate age management practices in labour markets and work places. This needs to be changed and Member States should encourage reforms in their labour markets and their systems in place to support the workforce. Thus, numerous respondents underline that pension reforms should be coupled with active labour market policies, flexicurity, lifelong learning opportunities, effective social security and health care systems, and improvement of working conditions. Several Member States or national parliaments mention the importance of the European Year 2012 for Active Ageing in this context.

Moreover, the European Parliament stresses that the EU should promote better employment opportunities for older workers and an age-friendly labour market. Increases in the statutory pension age should be contingent on the availability of work for older workers, as otherwise they would simply entail shifting public expenditure from old-age pensions to unemployment benefits. Some add that public awareness campaigns should be considered as one way of improving the image of older workers among employers. Business organisation underline that an appropriate wage policy is needed where wages are linked to productivity so that older workers are not pushed out of the labour market.

A few respondents maintain that gradual retirement schemes are good but should be complemented by the removal of incentives to retire early and by the provision of incentives for employers to create an inclusive labour market. Flexible work arrangements and part-time work are also proposed as solutions. Respondents had different views on whether flexibility in retirement age should be allowed only on an actuarially adjusted basis (with financial disincentive to retire earlier).

One European organisation suggested the EU should:

- support the development of new forms of work-life provisions adapted to the specific needs of the 50+ workers, mainly women, who care for dependent relatives i.e. a European Directive on carer's leave;
- and strengthen the EU anti-discrimination legislation to combat age and gender discrimination in and outside employment.

Several respondents, including trade unions, highlighted the importance of enabling the young generations to enter the labour market earlier. Low employment rates among the young are not only the result of longer schooling, but results also from the lack of opportunities for stable employment. Some other respondents add that encouraging longer working and tackling youth unemployment must be pursued in tandem.

Automatic adjustments

Automatic adjustment mechanisms are presented as a possible approach by a number of respondents, but there is a predominant opinion that they should be designed at national level.

Linking increases in the pensionable age to increases in life expectancy is a natural option for some respondents, while others prefer the healthy life expectancy indicator, or entirely reject the idea. Proponents of the mechanisms underline their positive effects, as

the automatic link creates predictable situation and helps people to plan their retirement. By contrast, frequent ad hoc reforms introduced under pressure of circumstances might lead people to retire at the first possible occasion as they are afraid of losing their rights. Opponents emphasise that automatic mechanisms can come under strong pressure in time of adversity. Moreover, they might not be effective and could create uncertainty.

According to a number of respondents, automatic adjustment is a positive solution but their entering into force should not be scheduled too much into the future, as this only creates an illusion of reform. A few others claim that while announcing automatic adjustments well in advance may help to raise the retirement age, politicians should be given an opportunity to fine-tune the extent and timing of adjustments in the light of evolving circumstances.

Some of the respondents, including a number of Member States, mention not only automatic adjustment to the retirement age but also to pension levels (e.g. sustainability factors that balance the value of contributions and benefits in the system), as both can have a similar effect provided people decide to stay longer in the labour market.

Role for the EU

There is a general agreement between respondents that the EU should offer advice and help to exchange best practices between Member States, and recognition that pension policy remains a national competence. Some respondents suggest that the profile of the OMC objectives should be raised but their scope is sufficient. Some respondents propose that the EU could monitor developments in sustainability and e.g. implementation of automatic adjustment mechanisms in times of crisis.

QUESTION 4. HOW CAN THE IMPLEMENTATION OF THE EUROPE 2020 STRATEGY BE USED TO PROMOTE LONGER EMPLOYMENT, ITS BENEFITS TO BUSINESS AND TO ADDRESS AGE DISCRIMINATION IN THE LABOUR MARKET?

Member State respondents stress their commitment to the existing Europe 2020 strategy. Other respondents (national parliaments, social partners, civil society, other organisations and individuals) stress the opportunities the strategy offers. Europe 2020 and its flagship initiatives provide a suitable framework to boost growth and employment. The respondents see links between the Green Paper on Pensions and the Europe 2020 strategy. It was clear to respondents that the strategy on growth and employment depends to a large extent on pensions policies, which have an impact on poverty rates, can encourage or discourage employment and have a direct influence on the state of government budgets. Equally, policies in the spirit of Europe 2020 are relevant for pensions: for example, increased labour market participation rates will benefit the sustainability of both PAYG and funded pensions.

In their replies to question 4, respondents also highlight the different aspects of the Europe 2020 strategy and their link to pensions and ageing policies in more detail. On raising labour market participation rates respondents note that although this is not an easy task, it is needed. Some see raising pensionable ages in itself as a stimulant, others prefer to consider flexible and gradual retirement. The need to consider ways of increasing the motivation of employees and employers to make longer working lives a reality is also raised. The equal and non-discriminating treatment of older workers should continue to be legally guaranteed. But beyond this, respondents saw the need to not only raise the quantity of the labour force in order to advance economic growth and pension

sustainability, but also pay attention to the quality of work, as this is key for the success of efforts to extend working lives.

Stimulating life-long learning and the recognition and promotion of the skills and experience of older workers can be highly beneficial. Individual employer responses mentioned the responsibility that employers have in this regard. It would be helpful if Member States provided a more suitable incentive structure. This also links closely to the modernisation of the labour markets under the Europe 2020 strategy and is explicitly mentioned in the responses. Some respondents highlight here the opportunities presented by flexicurity, but also the potential positive impact that higher mobility of workers between companies, sectors, and countries can bring. Finally, some respondents welcome the role of the European Year for Active Ageing for promoting this agenda.

Member States and also other respondents note that there is no one-size-fits-all approach and see the implementation of the strategy as their own responsibility. Nevertheless they find that the European level will be beneficial to them in their endeavours. Some respondents point here also to the role the social partners have to play in this. The European level offers the opportunity to exchange best practices. The European Commission could be helpful by e.g. expanding the open method of coordination, undertaking more peer reviews and actively comparing Member States. The European Commission should also continuously monitor the achievements of the strategy and encourage exchanges of best practice; better information sharing and clear identification of what could be the best way forward for both the economy and pensions in the context of an ageing population by continuing on the holistic process of the Green Paper.

Like some respondents, the European Parliament stresses the contribution the Europe 2020 strategy can make in ensuring adequate and sustainable pensions. However, it regrets that there is no explicit mentioning of decent, sustainable and adequate pension systems. It therefore suggests incorporating the holistic objectives of the Green Paper into the Europe 2020 Strategy.

QUESTION 5. IN WHICH WAY SHOULD THE IORP DIRECTIVE BE AMENDED TO IMPROVE THE CONDITIONS FOR CROSS-BORDER ACTIVITY?

A large group of respondents mentioned that a revision of the IORP Directive is necessary to clarify legal uncertainties related to several concepts. Many respondents, as well as the European Parliament, stated that any revision of the Directive would need to be accompanied by a thorough impact assessment, in particular to quantify costs and the administrative burden. The European Parliament also mentioned the important role the European Insurance and Occupational Pensions Authority (EIOPA) should play in the preparatory process of reviewing the IORP Directive. However, a number of respondents suggested that revising the Directive may lead to legal uncertainty and is not necessary because of its recent implementation and the limited evidence of its full impact in practice, especially relating to cross-border activity.

The following suggestions for amending the IORP Directive were given.

1. A more consistent approach is necessary for IORPs which wish to operate across borders since the Member States have different legal interpretations of that very concept.

2. It may be necessary to remove the possibility for Member States to impose additional requirements for cross-border activity of IORPs. Reference was made in particular to the full-funding provision (Article 15), investment rules (Article 18) and information requirements (Article 20). The same regulatory oversight should apply to IORPs which operate domestically or across borders. This would avoid regulatory arbitrage between the IORPs, regardless of how they operate.
3. There is no clear definition of the scope of social and labour legislation and its interaction with prudential regulation as well as general-good rules.
4. Another group of respondents stated that the different fiscal regimes at the national level are a constraint for cross-border activity. Respondents acknowledged in this respect that the issues of social and labour law and fiscal matters fall in the remit of Member States' competences.
5. Some respondents mentioned that the application of the Directive would need to be extended to financial institutions other than those institutions which are currently within the scope of the Directive.
6. It was also stated that the Directive does not address the issue of secondary establishment in another Member State, as compared to the situation of insurers which are covered by the consolidated Life Assurance Directive. The establishment of a level-playing field would also be welcomed by several respondents, which could give EU citizens more choice of and lower prices for pension products.

Issues outside of the remit of the IORP Directive were mentioned by some respondent such as the introduction of a 28th regime, which could be a useful alternative for cross-border schemes. Others expressed the opinion that a parallel regime would be of little benefit for two reasons. It would only lead to confusion and undermine the existing national regimes; moreover, the differences in social and labour law at the national level could be an obstacle to develop such a regime. In addition, the role of venture capital markets should be clarified, including an assessment of the prudential aspects and the investment funds' strategies regarding high-risk financial instruments.

Finally, the creation of pan-European individual pension accounts, functioning alongside the current pension systems, is presented by some respondents as potentially beneficial for cross-border workers.

QUESTION 6. WHAT SHOULD BE THE SCOPE OF SCHEMES COVERED BY EU LEVEL ACTION ON REMOVING OBSTACLES TO MOBILITY?

As the Green Paper explained, policies and regulation need to facilitate the free movement of production factors, notably labour and capital, in the EU. In the context of pensions, the paper highlighted three EU level initiatives: first, the IORP Directive, which covers certain funded occupational pension schemes and is designed to facilitate cross border activity; second regulations 883/2004 and 987/2009, which are designed to co-ordinate social security (including pensions); and third, the proposal for a portability directive, which seeks to remove obstacles to the free movement of people that can be caused by the rules of some supplementary pension schemes. The Green Paper also spoke about the fragmented and incomplete natures of the EU level regulatory

framework and how this, combined with developments in pension systems, raised issues about consistency and boundaries between different EU level instruments. Responses to this specific question on scope therefore covered a range of issues and EU level instruments.

Most responses focussed on the scope of the co-ordination of social security pensions and the portability initiative for supplementary pensions or related issues. , Some related it to both of these, others to the IORP Directive, while some replied without referring to specific instruments.

The European Parliament stressed that labour market mobility in the EU will be crucial for job creation and economic growth and went on to note the positive impact a more dynamic labour market could have on pension systems. Many respondents also stressed the importance of labour market mobility for the single market, jobs and growth. Some also went further to note the importance of international mobility beyond EU borders. However, views on what this should mean in terms of the scope of EU level action varied considerably. A number of respondents noted that many barriers, such as tax and social and labour law differences between Member States, were real could not be dealt with at the EU level.

In general, most respondents who mentioned it felt that the co-ordination of social security pensions under Regulation 883 worked well and that there was no need either to change this regulation or to expand its scope. Some noted that, in any case, social security was a Member State competence. Others stressed that this co-ordination approach was indeed the right way to go for social security pensions (rather than, say, a harmonisation approach); one response suggested. One Member State suggested that co-ordination regulations could be developed to ensure that statutory funded pension schemes have a freer hand on issues such as gender and the approach investment. Another view was that regulation 883 may need adjusting to cope with highly mobile workers.

The portability initiative aimed at supplementary pensions was mentioned less often, but of those who did refer to it, nearly all supported such an initiative, though there was little explicit comment on the scope. Specifics were mostly left to the responses under question 7, but a regulation 883-type co-ordination approach was felt to be unsuitable for supplementary pension schemes, and the acquisition and preservation approach was felt to be best. One notable response, however, thought the application of a co-ordination approach adapted to all supplementary – occupational and individual – funded pension schemes could be worth some investigation. Sharing of information and best practice was also mentioned by a couple of respondents as a good way forward. A few respondents mentioned pan-European pension schemes (a "28th regime"-type approach). But whilst some felt this may offer a way forward (and one felt it should be part of the Europe 2020 strategy given the importance of job mobility), others opposed it due to varying tax regimes and subsidiarity concerns. One response noted that defined-contribution (DC) pensions in any case represented much less of an issue, so there was no real need for action for these types of pensions.

Those respondents who mentioned or focussed on the IORP Directive felt the scope was fine as it was and one Member State response specifically referred to the need to continue to exclude book reserve schemes from the IORP Directive.

So, overall, although the answers varied in what they focussed on – IORP Directive, Regulation 883, supplementary pension rules – the message was consistently that there should be no change of scope, particularly as regards regulation 883.

QUESTION 7. SHOULD THE EU LOOK AGAIN AT THE ISSUE OF TRANSFERS OR WOULD MINIMUM STANDARDS ON ACQUISITION AND PRESERVATION PLUS A TRACKING SERVICE FOR ALL TYPES OF PENSION RIGHTS BE A BETTER SOLUTION?

Reaching agreement on how to tackle obstacles to the free movement of workers that can be caused by supplementary pension rules has proved extremely difficult. The Green Paper sought to put new impetus into this long-standing work.

The vast majority of responses strongly supported the principles of free movement and felt it was important to avoid anything which could inhibit this. Some noted that reforms of pension systems and changes in labour markets meant that action was more necessary than ever. The European Parliament, as noted in the summary of question 6, stressed that labour market mobility in the EU will be crucial for job creation and economic growth and went on to say it considered that citizens' confidence will be improved when obstacles to internal and cross-border mobility are removed. Beyond this wide agreement on the principle, views differed on the scale of the problem caused by supplementary pension rules, what the solutions might be and who should be responsible for taking any action.

The first part of the Green Paper question concerned transfers. Transfers were included in the original proposal for a portability directive of 2005. It was subsequently dropped in the revised proposal of 2007 due to insufficient political acceptance. As the Green Paper was taking a fundamental look at how to make progress, it made sense to raise the issue again. However, perhaps not surprisingly, consultation responses showed that the positions have moved very little since this was last considered.

The majority of respondents felt transfers were not a viable option and strongly opposed them. Some responses noted that, at first sight, transfers appeared to be an intellectually neat solution as it meant that when a person moved jobs their pension went with them and their former employer and pension scheme would be free of any further responsibility and administrative burden. But they went on to note that on closer inspection and in particular in practical terms, transfers were too difficult to be a serious option. Major technical difficulties 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 all weighed heavily on the majority of respondents who opposed transfers.

Other concerns included the possible impact of transfers on pension schemes, as significant withdrawals could put at risk the scale necessary to provide good value pensions. One or two felt that, regardless of other considerations, the political realities meant transfers was a dead end so other more hopeful options should be the focus and transfers should not be pursued. Nonetheless a minority of respondents did support looking again at transfers, perhaps using best practice exchange to try to overcome the formidable technical challenges. One response supported transfers subject to some specific conditions and felt such transfers could be promoted via the OMC and non-binding guidance and start via small-scale agreements between certain sectors and Member States, with researchers considered a good sector to start with.

The European Parliament noted the trend towards more defined-contribution pension schemes and fewer defined-benefit schemes, which has the effect of putting more of the investment risk onto pension savers. It also noted the diversity and complexity of the various capital based occupational pension systems and expressed the view that any transfers ought only to be permitted into another pension fund. Furthermore, the European Parliament called for an in-depth study on tax issues related to the capital-based occupational pension systems and life insurance capital systems.

Minimum standards of acquisition and preservation became the main focus of the revised proposal for a portability directive in 2007. On these issues, too, the views expressed were not unexpected. The majority of respondents supported this approach. Notably the European Parliament stated that in regard to cross border issues, the clear focus of EU level activity should be on developing minimum standards for the acquisition and preservation of pension rights and on facilitating the establishing of national tracing systems for those rights. The strength of support elsewhere varied, however. Some supported this approach very strongly, others were more cautious noting the importance of having reasonable time to adjust systems and ensuring that minimum standards were only introduced gradually.

A couple of responses, whilst supporting an approach based on acquisition and preservation, were against action on this 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). Only a few respondents expressed outright opposition to the acquisition and preservation approach. One issue cited was that some companies used pensions to reward staff loyalty and that minimum standards on acquisition would interfere with this and could discourage some employers from providing pensions in the first place. Another issue raised 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.

The issue of a tracking service, by contrast, was a new element in the long-running portability debate. This suggestion was widely supported, although there were different views in terms of how far this should go and how fast it should be done. The European Parliament welcomed this proposal and called for the Commission to submit proposals for a European tracing system, although it also supported facilitating tracing systems at national level. A few other respondents also felt that the EU should look to set up and regulate such a service, though some others cautioned that any move to an EU level or integrated system should respect existing national systems. Others cited costs and data protection issues. A more typical response was that an EU level tracking service was a very ambitious objective and it would be best to start with encouraging national level systems and sharing best practice on these, perhaps later considering how these could be linked. Some were still more cautious and though they supported efforts to encourage tracking services, they felt national level systems should be the limit.

Some respondents felt that efforts should be on both transfers and acquisition/preservation, as in the original proposal for a directive of 2005. Some clearly felt that action on all fronts was necessary, whilst others thought that such a broad approach was best from a pragmatic viewpoint in case some elements could not in the end be implemented. One respondent felt that whilst transfers may not be practical or desirable in all cases, they should be used wherever possible, while acquisition and preservation should be used where transfers are not possible.

A handful of responses preferred neither a transfers nor an acquisition/preservation approach even at national level. One or two of these responses questioned how significant pension rules were in terms on inhibiting mobility and therefore whether action here was really proportionate or necessary. One response considered that the existing Directive 98/49/EC is sufficient and that efforts should be directed instead at strengthening pension systems in general. Another response argued that when transfers are not feasible, mutual recognition of employment periods for vesting purposes (along the lines of the social security co-ordination approach under regulation 883) could be a solution. The possibility of using reinforced co-ordination to promote free movement was mentioned by one respondent. A couple of respondents that felt more discussion was needed at national and EU level before taking decisions.

The idea of the 28th regime (ie establishing supra-national pan-European pension funds as an alternate way of tackling mobility problems) was also mentioned. In one case, the ongoing work on the viability of setting up a pan-European pension scheme for researchers was cited as a possible pathfinder for this approach. However, a number of other respondents also mentioned the 28th regime only to dismiss it as inadequate as a solution, stressing that it is complex, costly, and has the potential to undermine existing regimes.

Other points mentioned included the importance of transparency and good information for individuals, and some touched on the need for continued efforts to challenge discriminatory tax treatment.

Thus, overall, the responses strongly support action to remove obstacles to mobility related to supplementary pension schemes. The majority, including the European Parliament 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.

QUESTION 8. DOES CURRENT EU LEGISLATION NEED REVIEWING TO ENSURE A CONSISTENT REGULATION AND SUPERVISION OF FUNDED (I.E. BACKED BY A FUND OF ASSETS) PENSION SCHEMES AND PRODUCTS? IF SO, WHICH ELEMENTS?

The European Parliament, around 150 organisations and a few individuals replied to this question. A number of respondents that did not reply stressed that in fact funded pension schemes should not be promoted in the EU. According to those respondents, the recent economic and financial crisis has demonstrated that pay-as-you-go schemes are more resilient to shocks.

Among those that responded, there was a slight majority that suggested that current EU legislation would benefit from a review to ensure a consistent regulation and supervision of funded pension schemes and products. The European Parliament observes that EU law on pensions is very fragmented and calls on the Commission to investigate whether it would be appropriate to rationalise this regulatory framework as part of better regulation. By contrast, employers and pension funds tended to suggest that there is no need to review EU legislation, and the most recurrent reasons cited were the following: (1) pensions are different from other insurance and savings products; (2) retirement provision itself encompasses a very wide spectrum; (3) occupational pension schemes are set up by national social and labour law and not accessible to consumers in a general way; and (4) there are too many national differences so that consistency would be too difficult to achieve. According to those respondents the EU is right to gear its regulation

and supervision to the pension providers and define different rules; there is no need to take any further initiative at the EU level.

As regards the slight majority of the respondents suggesting that current EU legislation would benefit from a review to ensure a consistent regulation and supervision of funded pension schemes and products, most of the support came from respondents representing members/beneficiaries (employees, pensioners, women and youth), insurance undertakings and individuals. Although the reasons were not always the same, respondents mentioned that the following main elements could be reviewed (in no order of preference):

Consistency across the overall pension system

- The EU could develop a common terminology and clear definitions of different pension schemes. This would be useful prior to considering an enhancement of the consistency of EU legislation. The pension schemes in all 27 Member States should be adequately reflected, and this might require the development of a new classification. In particular, the boundaries of social security schemes and private schemes should be clearly defined so that every scheme falls within a specific category.
- There might also be a need to make a clearer distinction between savings (accumulation of individual assets) and pensions. As regards pensions, some respondents suggested that it could be useful to agree on a common definition. Some suggested that the label "pension" should be restricted to a scheme or product that offers one or a combination of several features, including: (1) protection against biometric risks (e.g. longevity, invalidity or survivor) by providing an old-age income through a regular stream of payments; (2) high security standards; (3) entail risk-sharing and solidarity elements; (4) accessible to a large part of the population through mandatory participation or auto-enrolment. At the same time, some respondents suggested that the EU should develop a horizontal approach for all the long-term savings products (including pensions) as opposed to insurance and other financial products.
- As regards pension arrangements that are not subject to EU prudential legislation, respondents referred in particular to some of the individual funded pension schemes that, while being part of the statutory system, are managed by private financial institutions. It was pointed out that in many cases these private financial institutions are supervised by the same national authorities that are already members of the European Insurance and Occupational Pensions Authority (EIOPA). The European Parliament *"stresses that in cases where Member States have mandatory pension funds managed by private institutions, such schemes should also be assessed from the point of view of compliance with European conditions and criteria as regards security, investment and asset classification"*.
- Some respondents felt that current EU legislation focuses primarily on occupational pension schemes and not sufficiently on individual pension plans. A number of respondents pointed out that the recommendations, principles and guidelines of the OECD (Organisation for Economic Cooperation and Development) and IOPS (International Organisation of Pension Supervisors) apply to private pensions, including both occupational and personal schemes.

Consistency across financial institutions

- A number of respondents recalled that currently EU legislation for pensions adopts the approach of "one provider – one directive". There are, however, a series of elements such as governance and risk management, safekeeping of assets, investment rules and disclosures that should apply to all providers of pension schemes and products. Some respondents therefore called for a revision of the IORP Directive.
- A number of respondents suggested that there should be a particular focus on the consistency with the legislation applicable to insurance undertakings. Those suggestions were made by four Member States, representatives from the insurance sector and retail investors. The European Parliament *"believes that, in order to achieve consistency of prudential regimes among different financial services providers, the 'same risks – same rules – same capital' principle must apply, taking into account the characteristics of each pension product or scheme."*
- As regards investment, respondents pointed out that pension funds are major financial institutions which have an important influence on the stability of financial systems. Some respondents also suggested that the Statement of Investment Principles should disclose how sustainable development criteria (economic, social and environmental) are internalised in the investment policies of pension funds. It was pointed out that several Member States have already taken action in this area.
- Scheme members/beneficiaries and consumers should have access to the right information. There must be transparency and comparable information between different pension, insurance and savings arrangements. Disclosure of costs in different pension schemes could have an important effect in increasing the efficiency of the administration and of asset management.
- Some respondents mentioned that equivalent and consistent solvency requirements should apply to all providers of capital guarantees. Guarantees might otherwise have different values depending on the type of provider. It was recalled that life insurance companies are required to reserve own funds depending on risk, while IORPs can continue to reserve regulatory own funds on a flat-rate basis, and asset managers offering investments in accumulation units with a view to forming retirement capital are not subject to any capital requirement. Some respondents also stated that difficulties may also occur if national legislation allows pension schemes to make bold promises.

Consistency across types of pension schemes

- EU prudential rules could be improved to better account for the specificities of DC schemes. An insurance-based mindset should be avoided because the accumulation phase of a pure DC scheme is basically an investment arrangement similar in nature to UCITS and MiFID. Some respondents considered that the IORP Directive needs to be reviewed to better cater for the needs of risk-based supervision of DC schemes. Especially relevant for DC schemes are rules concerning governance, risk management, investment, safekeeping of assets and information disclosures.
- A number of respondents suggested that a new EU framework on the accumulation phase in DC schemes could be considered to address issues such as (1) plan design to mitigate short-term volatility in returns and (2) investment choice and default investment options. The EESC urges consideration of the possibility that EU rules

- A number of respondents suggested that the EU should not adjust its rules to the trend towards pure DC schemes (without any guarantees) but rather seek to counter this trend. It was, for example, suggested that the EU adopt legislation requiring minimum guarantees for total contributions or real investment returns in DC schemes.

QUESTION 9. HOW COULD EUROPEAN REGULATION OR A CODE OF GOOD PRACTICE HELP MEMBER STATES ACHIEVE A BETTER BALANCE FOR PENSION SAVERS AND PENSION PROVIDERS BETWEEN RISKS, SECURITY AND AFFORDABILITY?

Respondents generally agreed that there is a trade-off between risk, security and affordability. Pure DC schemes are clearly affordable, but they shift the entire risk and insecurity relating to investment, inflation and longevity to the members, who frequently do not have the ability to monitor and manage those risks. Many respondents, including individuals, therefore suggested that the main focus of regulation should be on a high degree of security. Although pension schemes and products with a capital or minimum return guarantee are more desirable for pension savers, the cost of the guarantee will have to be borne by someone. If pension liabilities are not fully funded (or in case the pension provider becomes insolvent), the cost will be borne either by the employer in the form of additional contributions, or by the members if it is possible to reduce accrued pension rights in a going concern. Where the employer becomes insolvent the cost might be spread across the economy if there is a national pension guarantee scheme. In the absence of such a scheme, the costs of the promise will be socialized and transferred to the tax payers in the event of a bail-out. Then the burden would be imposed on future generations of employees, who will carry the main responsibility of demographic change.

Respondents had different views as to who should seek to strike the right balance between risk, security and affordability. Some respondents mentioned that decisions about the trade-offs are most effectively made at the level of the individual pension scheme. Regulators should leave enough flexibility to employers and other pension providers, or the social partners. Others suggested that market forces would result in a reasonable balance, and that the role for the regulator is to ensure a competitive environment, for example through rules on information disclosure. Most respondents suggested, however, that the right balance should be struck by the Member States at the national level. Member States should share best practice in the context of the Open Method of Coordination. At the same time, many respondents suggested that the best practices could be compiled into a code of good practice i.e. in a non-binding EU document.

As regards the subject of the best practices for achieving a better balance between risks, security and affordability, respondents made the following main suggestions:

- (1) Enhance the comparability of information disclosures regarding, for example, the funding level, the nature of the guarantee and costs. This was mentioned by a vast number of respondents.
- (2) The EU might seek to promote the diversification of sources of retirement income. This would enhance the shared responsibility for retirement provision and spread the risks across government, employers and individuals.
- (3) Actively encourage Member States to review existing legislation that removes flexibility from employers in how they wish to promote pension benefits to their employees and how costs and risks are shared.
- (4) A common language might be helpful by making the trade-offs associated with different pension arrangements more transparent.
- (5) Promote pension scheme designs that:
 - are based on solidarity and risk-sharing and agreed on by the social partners in collective agreements, rather than on the performances of the financial markets.
 - Mitigate the risks for individuals during the accumulation phase. This could entail, for example, that the necessary framework conditions are in place that allow for the development of hybrid schemes such as DC schemes with minimum guarantees, mixed DB/DC schemes, or de-risking of pure DC schemes through appropriate life-styling arrangements and good default investment options.
 - deliver an annuity rather than a lump sum.
- (6) A more coordinated approach for the protection against voluntary discontinuance by a sponsor whilst the scheme is underfunded.
- (7) Address issues around governance, in particular the representation of the social partners.

While most respondents mentioned that the EU should avoid binding regulation that lays down strict obligations regarding the design of pension schemes, some, in particular the EESC and many individuals, suggested that it would be useful to develop principles-based regulation with checks and balances to ensure effective compliance. Moreover, several respondents mentioned that a balance between risk, security and affordability requires a transparent and mandatory risk disclosure statement to be provided to pension savers.

QUESTION 10. WHAT SHOULD AN EQUIVALENT SOLVENCY REGIME FOR PENSION FUNDS LOOK LIKE?

The European Parliament, around 140 organisations and a few individuals replied to this question. The organisations most concerned with this question were employers, pension funds and service providers. Relatively few responses came from the organisations representing members/beneficiaries (trade unions, pensioners, women and youth). More

than half of the replies came from two Member States (DE and UK) and EU-wide organisations, and a fair number of replies came from a further five Member States (DK, FR, IT, NL, SE).

A number of respondents, mostly among the employers, suggested that, at least for the time being, a review of the current rules is not necessary or that a single approach is not possible. At the same time, the European Parliament *"stresses that financial markets can function efficiently only when there is confidence and trust and considers that confidence and trust require solid prudential rules for financial institutions, and that IORPs should be no exception to this"*. The large majority of the respondents provided suggestions as to what equivalent solvency rules for pension funds could look like. The following main elements and principles were described:

1. Many respondents were supportive of risk-based supervision for pension funds. In many cases this support was explicitly stated, notably in the responses from insurance companies and members/beneficiaries. Some respondents mentioned that the current solvency margin system is known to define capital requirements in a fairly rudimentary way, without taking account of the effective risk profiles of the pension fund, as they tend to concentrate solely on aspects of size. Risk-based supervision would also enable pension schemes to take into account diversification.
2. At the same time, there was strong concern that risk-based supervision is taken too closely as a synonym for the Solvency II regime for insurance companies. On the one hand, insurance companies, a number of Member States and members/beneficiaries were in favour of using Solvency II as a starting point to develop an equivalent solvency regime for pension funds. These respondents generally underlined the need to maintain a level playing field across financial sectors. Similar risks should be subject to consistent regulatory and capital requirements. This will be the case in a number of Member States as from January 2013 when Solvency II enters into force. On the other hand, the vast majority of the responses from employers, pension funds and service providers strongly questioned that Solvency II is the adequate starting point. These respondents generally claim that (1) insurance companies and pension funds do not compete in the same market: occupational pensions are accessed via the labour market, not in the financial product market; (2) occupational pensions operate on a not-for-profit basis; and (3) Solvency II has been developed for the requirements of insurance supervision and that pension fund specificities are not taken into account.
3. The strongest concern relates to the quantitative requirements in the first pillar of Solvency II. Many respondents recalled that the issue about own fund requirements only arises for IORPs that are themselves (rather than the sponsoring undertaking) underwriting the liability to cover against biometric risk, or that guarantee a given investment performance or a given level of benefits (as specified in Article 17 of the IORP Directive). For those IORPs, respondents consider that the own fund requirements of Solvency II are inadequate and too strict. This is because pension schemes, as opposed to insurance contracts, have access to additional risk-mitigating security mechanisms. The liabilities side has some "loss absorption" features such the flexibility to reduce or suppress pension indexation, to reduce the pension benefit in a going concern or to call on additional contributions. On the assets side, pension schemes have recourse to a

sponsor covenant, to contingent assets outside the IORP, or, in some Member States, to reinsurance from a pension guarantee scheme. The respondents generally argue that pension fund supervision should be based on rules that favour substance over form. It is therefore important to take account of the precise nature and duration of the pension liability. The European Parliament considers that a solvency regime for IORPs must recognise the specificities of pensions, in particular as regards the conditionality of pension rights, the duration of pension portfolios and the fact that IORPs are special-purpose vehicles operating a homogenous product portfolio.

4. In a few cases, respondents explicitly suggested that technical provisions should be harmonised in order to enable comparison and facilitate cross-border activity. A few respondents also mentioned that the IORP Directive should develop common rules to create comparable supervisory balance sheets for pension funds. At the same time, some respondents were concerned about a supervisory regime based on market-consistent valuation of assets and liabilities. The reason stated is that this would foster pro-cyclical investment behaviour and this would be incongruent with the long-term nature of pension liabilities.
5. Many respondents considered that pillars 2 and 3 of Solvency II may offer some useful principles that could be explored at EU level in areas around governance, risk management and information disclosure. While the degree of explicit support varied by type of organisation, there was no response suggesting that the qualitative requirements of Solvency II would be unsuitable for pension funds.
6. Many respondents underlined the large diversity in occupational pension schemes across Europe. Occupational pension schemes are delivered using different vehicles, notably insurance undertakings, remote pension funds and sponsor-backed pension funds. If it was considered to align the solvency rules for all three types of vehicles – rather than only across the first two types – a number of respondents suggested that harmonisation could only be possible on the basis of high-level principles. Several respondents referred to the principles proposed by the European Actuarial Consultative Group: balanced, forward-looking, risk-based, transparent, proportionate, countercyclical and practical. As regards counter-cyclical, some respondents advised that the rules should encourage deficit reduction contributions and appropriate build-up of surplus when the scheme sponsor's finances are strong. A number of respondents have also suggested that the length of the recovery period needs to be taken into account.
7. While some of the principles of Solvency II are expected to be of benefit for pension fund supervision, some respondents suggested that the principles have to be implemented with greater flexibility than for insurance because of the higher diversity. While the very first single market rules for insurance undertakings were adopted in the 1970s already, those for IORPs were adopted some thirty years later in 2003. Moreover, the solvency regime for pension funds may need to be recalibrated (e.g. at a Value at Risk with a confidence level below 99.5% or over a time period of more than one year), allow for proportionality and adequate transitional periods to avoid market disruptions.
8. The majority of the respondents, including the European Parliament, invited the Commission to prepare a rigorous impact assessment study before making a proposal to change the IORP Directive. While the main aim of supervision is to

protect members/beneficiaries, in the case of voluntary pension funds it is also important to take into account the competitiveness of EU businesses and the impact on the supply and cost of occupational retirement provision in the EU. A few respondents underlined that the rigorous impact assessment should not just assess the direct costs, such as higher contributions from the sponsoring employer; it should also assess indirect effects, such as the impact of higher funding requirements on the employer's willingness to keep the scheme open to future accrual, as well as the impact on financial stability. Scale and risk-sharing mechanisms tend to make occupational pension schemes cost-efficient and this is supportive of pension adequacy.

QUESTION 11. SHOULD THE PROTECTION PROVIDED BY EU LEGISLATION IN THE CASE OF THE INSOLVENCY OF PENSION SPONSORING EMPLOYERS BE ENHANCED AND IF SO HOW?

The European Parliament underlines in its report the need to ensure proper implementation of the existing Directive 2008/94/EC on the protection of employees in the event of insolvency of their employer and called for strengthened legislation when needed. The European Commission should follow the implementation of the current Directive closely and take action against Member States where justified. The report also calls for the Commission to examine whether the use of pension insurance associations which exist in some Member States to protect book reserve schemes could be recommended to other Member States.

The EESC considers that the EU should require Member States to regulate the setting-up of guarantee mechanisms (in the form of special funds) to protect future retirement income.

Member States' governments agreed with the Commission that the risk of insolvency of the employer for the supplementary occupational pensions is a matter of concern. However, while some are open to an enhancement of the protection provided by EU legislation (introduction of guarantee schemes; externalisation of internal funds), most of them consider that no further legislation at EU level is needed. A more detailed analysis is required of the problems and shortcomings, if any, in the current protection as well as good practices. This analysis should take into account the complexity of the matter due to the structural differences between the different systems in the Member States.

Among non-government members of the Pensions Forum³, there is a broad consensus that no further legislative action is necessary for the time being; the EU should instead better clarify the existing rules and make sure that they are properly applied by the Member States in the light of the ECJ case law. Some respondents have suggested to use the open method of co-ordination to this end and/or to issue a communication clarifying the requirements of EU legislation for the protection against the insolvency of the employer. One respondent, on the contrary, considered that the protection provided by EU legislation should be enhanced within the framework of the discussion on the solvency regime for IORPs. For this respondent, guarantee funds should be established

³ The Pension Forum is an advisory committee composed of experts from governments, social partners and representative organisations at EU level and its remit concerns supplementary pensions. It was set up by Commission Decision 2001/548/EC of 9 July 2001.

and all forms of complementary pensions should be covered (book reserves, external pensions funds or insurance schemes). Some respondents see many difficulties as to how a European-level guarantee fund or even a uniform system could be designed and funded in such a way as to take into account the complexity of pension provision across the EU.

The majority of other respondents (businesses, social partners at sectoral or national level, NGOs, individuals) consider that a uniform EU-wide insolvency regime would not be appropriate, taking into account the diversity of occupational pension regimes in the Member States. No further EU legislation is required in this field: the preferred course of action is an exchange of best practices and the use of the open method of co-ordination as well as the clarification of the scope of the EU legislation. Although a few of them suggested that guarantee funds should be created at national or European level, most underlined the impracticability of setting up a European one. Some respondents warned against the increase in costs that further protection would entail and about the risks of moral hazard in setting up guarantee schemes. Some respondents suggested that the funds for pension provision should be kept separate from the employer or at least externally insured. A few respondents suggested that unpaid premiums be given priority ranking in liquidation proceedings. The vast majority of individuals who responded to this question agreed that the protection should be enhanced; however, only a few gave any suggestion as to how.

In summary, respondents acknowledge the need for protection of pension scheme members against insolvency of sponsoring employers and the vast majority tend to consider the EU legislative framework for this as adequate. Directive 2008/94/EC on the protection of employees in the event of insolvency of their employer does not specify how Member States should ensure that occupational pension rights are protected, and Member States have developed different solutions which are adapted to the specificity of their occupational pension schemes. Some respondents show openness to consider strengthening the EU legislative framework, but most are very clear that new measures are not necessary. In any case, it seems appropriate to analyse carefully the results of a review of national measures and their effectiveness before envisaging changes to the EU legislative framework. Another key question is whether any weaknesses in the protection against insolvency are the result of insufficient standards in EU legislation or poor implementation of this legislation.

QUESTION 12. IS THERE A CASE TO MODERNISE THE CURRENT MINIMUM INFORMATION DISCLOSURE REQUIREMENTS FOR PENSION PRODUCTS (E.G. IN TERMS OF COMPARABILITY, STANDARDISATION AND CLARITY)?

Generally, respondents stressed the importance of consumers receiving clear, succinct and well-presented information upon joining a pension scheme, whatever its nature, and thereafter, including at retirement. Life events that may affect accrued pension entitlements such as divorce or marriage should be included. It was stated as well that the different notions of pension products should be explained. The legislation differs depending on the nature of the pension product involved. Some mentioned that EU common rules should be developed to ensure that Member States provide the citizens with regular reliable updates about items such as future individual pension rights, general standardised information on the potential risks of a reduction of accrued rights, fees, payout options, internal and cross-border portability restrictions and default options, among others, of the various schemes and products which are available to them. The European Parliament stated that citizens must be promptly and fully informed of the

long-term consequences of any reform of pension provision. Other respondents emphasised that any possible revision of the IORP Directive should not mention explicitly which organisation is authorised to disseminate the information to (prospective) scheme members. Another group of respondents stressed the importance of the involvement of the social partners in the information provision.

A group of respondents mentioned that current arrangements provide the citizens with much information of an often technical nature, which makes them difficult to understand. In their view, modernising information disclosure must have regard both to the amount and the type of information provided and the way it is presented. Many also stressed that common disclosure rules for pension providers could improve member understanding and comparability across products and providers, while others said that flexibility should be allowed at the national level to comply with such common principles.

Respondents frequently mentioned that one area where basic standards would be welcome is the design of the annual pension statement. At the very least, supervisors should provide a common measure of cost that facilitates comparability. Inspiration could be found in the key investor information document as stipulated in Article 78 of Directive 2009/65/EC (UCITS IV) or the EU initiative on Packaged Retail Investment Products (PRIIPs). Another respondent stated that performance reporting should also be standardised by using an international standard such as Global Investment Performance Standards (GIPS), and ensure that a sufficiently long historical record is reported whenever short-term performance data is presented. Some respondents also emphasised that any new regulation regarding the information disclosure must be carefully considered through an impact assessment, careful use of evidence and consumer testing to ensure that citizens' understanding is guaranteed and any additional costs for pension providers are minimised.

However, others stressed that due to the great variety of pension schemes and systems, including defined benefit (DB) and defined contribution (DC), within the EU, a standardised and harmonised approach would not be appropriate and might even harm the relatively high communication standards that currently apply in some Member States. They mentioned in this context that much more emphasis should be put on information provision and financial education programmes at the national level instead of further regulating at the EU level. It was also stated that the current disclosure requirements are derived from Member States' social and labour laws. A new approach to regulation aimed at improving comparability by standardisation would, moreover, risk leading to excessively detailed regulation. A good solution might be the exchange of best practices in this regard. Some also stated that the current trend toward DC schemes would render information provision even more difficult because very limited information is available on the impact that various factors can have on the pension outcome by the time of retirement of the citizen.

Finally, some respondents pointed to information disclosure services, for example on the internet, which have started in some Member States with the aim of providing a comprehensive picture nationally, and which should be encouraged in all Member States. The European Parliament also mentioned the importance of the launch of campaigns at the national level to make citizens aware of their pension decisions and ensure the adequacy of their pensions.

QUESTION 13. SHOULD THE EU DEVELOP A COMMON APPROACH FOR DEFAULT OPTIONS ABOUT PARTICIPATION AND INVESTMENT CHOICE?

Many respondents agreed that it is necessary to make it easier for (prospective) scheme members to take a rational decision in the cases of mandatory and voluntary pension schemes, giving the main priority to good outcomes for members. In their view, a set of EU principles or common guidelines for default options could be helpful in this regard.

A group of respondents argued that automatic enrolment with a possibility for opting out by the employees might be beneficial because it reduces the risks associated with postponing the decision to join due to their inertia. In this respect, it was stated that the low levels of pension awareness and the complexity of pension products, including its definition, are problematic and need to be addressed through better information provision and increased financial literacy. Others mentioned that individuals should only have a limited choice of investment strategies involving different risks so that they could choose the risk return profile that best meets their needs. One respondent stated that the overall functioning of an occupational pension system depends on its collective nature in terms of access, acquisition of rights and investment strategies, which could be hampered by a wide individualisation of investment choices.

Some respondents mentioned that the introduction of an investment choice linked to the lifecycle could be a useful tool in this respect. An automatic transfer of the portfolio to low-risk investments when approaching the retirement age may be a basic protection mechanism for the majority of persons who do not have sufficient financial knowledge and cannot evaluate the risk levels they might face. Some respondents stated that the protection of the insured persons from excessive risks is an important target, and therefore the development of default options may be useful.

However, others stated that a uniform solution at the EU level would be difficult to achieve, as it needs to reflect the country's overall pension system design, social security framework and the tax system, among others. Moreover, some mentioned that there is no one-size-fits all approach to default funds and investment choices as the level of risk appetite of members and/or policyholders differs and as there needs to be flexibility to allow a free choice of members to balance the risks and rewards within pension schemes. Others stated that the EU could play a role in exchanging best practices in this area.

Finally, it was stated that a common EU approach for default options concerning the investment choice could have negative unintended effects, since this would restrict market creativity and innovation, which would ultimately harm the pension scheme members' interests.

QUESTION 14. SHOULD THE POLICY COORDINATION FRAMEWORK AT EU LEVEL BE STRENGTHENED? IF SO, WHICH ELEMENTS NEED STRENGTHENING IN ORDER TO IMPROVE THE DESIGN AND IMPLEMENTATION OF PENSION POLICY THROUGH AN INTEGRATED APPROACH? WOULD THE CREATION OF A PLATFORM FOR MONITORING ALL ASPECTS OF PENSION POLICY IN AN INTEGRATED MANNER BE PART OF THE WAY FORWARD?

Respondents recognize a very important role for the EU level in terms of policy coordination of pension policies by facilitating surveillance, coordination and mutual learning between the Member States.

While all EU Member States face major challenges in the pension field, notably due to population ageing, respondents generally expressed the view that there is no 'one-size-fits-all' solution for pension policies and pension scheme design, given the heterogeneity of the EU economies and diversity in this policy field in the EU. Notwithstanding this, because of the different circumstances Member States find themselves in, the sharing of best practices, peer reviews, collection of statistics and the identification of indicators at the EU level are widely supported.

Some view favourably a deepening of policy coordination and implementation at EU level and the creation of a new platform, a European Pension Platform, which would monitor all aspects of pension policy in an integrated manner, in line with the approach adopted by the Commission in the Green Paper. The European Parliament and other respondents share the opinion that such a platform should consider all the aspects of pensions and convey information from the public authorities, social partners, civil society and the pension sector with the aim of highlighting the best practices and comparing the situations of Member States and the living standards of retired people using a raft of indicators. This should, however, be achieved in compliance with the subsidiary principle and, to avoid overlap, taking into account the existing advisory committee on supplementary pensions (the Pension Forum).

However, a more common view is that the competence on pension policy should remain at the Member State level and that existing coordination frameworks, notably the Open Method of Coordination, but also the Pension Forum and more broadly the Stability and Growth Pact and the Europe 2020 strategy, are satisfactory at the EU level. Nevertheless, a large proportion of respondents felt that there was room for improvement within the existing coordination structures.

Many respondents pointed to the scope for enhanced cooperation to create and enhance synergies within existing frameworks such as the useful joint report on pensions in 2010 by the Economic Policy Committee (EPC) and the Ageing Working Group (AWG), under the ECOFIN Council, and the Social Protection Committee (SPC) and the Indicators Sub-Group (ISG), under the EPSCO Council. A view that emerges is that further coordination could be envisaged so as to improve and further develop statistical information, methodologies and relevant indicators, which would benefit from the multilateral context that the EU level provides.

In terms of responses from individual EU citizens, a wide range of views emerge. Responses range from strong support for further policy coordination under a platform for all aspects of pension policy to calls for ensuring complete autonomy of pension policies and, more generally, for less binding EU level rules for economic and social policies.