Towards a Pan-European Pension Fund for Researchers

Overview of Labor Law, Social Security and Tax Considerations

Vol.2

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Cyprus               Lithuania
Czech Republic       Luxembourg
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1. Austria

1.1 Social and Labor Law Implications

Benefits and Contributions
Voluntary private pension plans are rare (around 15% of employees are covered), but are becoming more popular in light of changes in the social security system and introduction of various tax incentives. Newly introduced employer-sponsored pension plans have been almost exclusively on a defined contribution basis and usually cover all employees. Employers match from 0.5% to 2% of covered pay below the social security contribution ceiling and 5% to 20% of covered pay above the ceiling. The employer match for manager-level employees tends to be higher.

Employers typically provide life insurance and long-term disability benefits through employer-sponsored pension plans (or under accidental death and dismemberment (AD&D) insurance). A typical survivors’ benefit equals a portion of the actual or projected pension, payable as an annuity.

Normal retirement age for individuals born before January 1, 1955 is age 65 (males) or age 60 (females) with 180 months of contributions. Starting in 2024, the normal retirement age for women will increase by six months each year to age 65 in 2033 for individuals born on or after January 1, 1955 who began contributing before January 1, 2005. Individuals who entered the work force after January 1, 2005 will reach normal retirement eligibility at age 65, regardless of gender.

Vesting requirements vary according to the vehicle used. For book reserves, the minimum vesting period upon termination of employment for reasons other than just cause is 10 years if vesting is regulated by the plan (5 years if vesting is not regulated by the plan). For direct insurance, employer and employee contributions vest immediately. For support funds, there is no vesting of employer contributions. For Pensionskasse, employee contributions vest immediately; employer contributions vest after 5 years (plans may provide a shorter period).

Access
Single employers may voluntarily establish an occupational pension plan. Plans also may be established through collective agreement with the works council or with individual employees. The Federal Minister of Economics and Labor must approve in advance the agreement model for individual employees.

Groups of employers may establish a pension fund via collective agreement with the industry union.

Discrimination based on arbitrary criteria is prohibited. The coverage of part-time employees depends on plan rules.

Participation is voluntary for covered employees.

Investments
The four funding methods that can be used for company benefit plans are:

- Book reserves (the most common financing vehicle in Austria);
- Direct insurance;
Support funds (rarely used for funding pension entitlements); or

Pensionskasse (the prevalent pension-saving vehicle for pension plans established after the pension reform in 1990);

With the exception of Pensionskasse, employer-sponsored pension plans do not allow for employee contributions.

Management
The management of an occupational pension plan varies according to the funding method:

- Book Reserves—The works council has the right to information and consultation.
- Direct Insurance—The life insurance company manages the plan.
- Support Funds—Since support funds are legal entities separate from the employer, there are no additional management requirements.
- Pensionskasse—Pension funds must have a supervisory board consisting of at least 5 members for single-employer fund and 10 to 12 members for multi-employer funds. A consulting committee with an equal number of representatives of fund management and fund members. This committee has informational rights and the right to make proposals to the supervisory board.

1.2 Taxation and Social Charges
Employee contributions to employer-sponsored pension plans are always made on an after-tax basis. Employer contributions are taxed depending on the financing vehicle.

Book Reserves
Allocations to book reserves are tax deductible to the employer if specific conditions are met. There is no taxable income to the employee until benefits are received.

- Book reserves must be established according to actuarial principles, with the liability spread over the period until retirement;
- Interest rate of 6% per year must be assumed;
- Reserves cannot be allocated if occupational benefits (including those from a pension fund that are based on employer contributions) exceed 80% of the present salary; and
- Fifty percent of the book reserve must be funded and invested in government bonds (with a transitional period of 20 years for existing benefit plans).

Book reserves may be “reinsured.” Premiums are tax deductible, and the reinsurance policy is an asset of the company; in other words, the value of the reinsured amount must be shown as an asset in the company’s books.

All benefits paid are taxed as earned income to the employee.

Direct Insurance
Premiums paid are tax deductible to the employer, but can be considered taxable income to the employee since the employee acquires direct title to the benefit. A contribution by the employer up to EUR 300 per year is tax exempt if the benefit plan is for all employees or all members of an occupational group. Effective
January 1, 2004, a pension is calculated based on legal parameters and the accrued capital. If the payout period is longer than the period used in the calculation, the benefit is taxable.

**Support Funds (Unterstützungskassen)**
Employer contributions to a support fund are tax deductible up to 10% of payroll (of the eligible employees). The total assets of the fund may not be greater than the capital value of the benefits being paid currently (including entitlement to survivors’ pensions), and employees are not allowed to contribute. There is no tax on investment income of the fund. Employer contributions to the fund are not taxable to employees. Benefits are taxed as earned income when received.

**Pension Funds (Pensionskassen)**
One thousand beneficiaries are required to establish a Pensionskassen.

Employer contributions to pension funds are tax deductible as a business expense and do not constitute taxable income to the employees, provided the employer’s contributions do not exceed 10% of payroll (of the eligible employees). Employer contributions to foreign pension funds are only tax-free to the employee if they are mandated by law.

Employees may opt between the government contribution and the special-expense deduction. In the case of the special-expense deduction, 25% of employee contributions, together with other work- and benefit-related expenses and contributions, are tax deductible as “special expenses.” Employee contributions are not allowed to exceed employer contributions.

Contributions to a pension fund are generally subject to a reduced insurance tax of 2.5%, which is paid to social security.

Benefits from a pension fund (to which only the employer has contributed) are taxed as regular income, whereas only 25% of employee-financed benefits are subject to taxation.

There is no tax on the investment income of the fund.

With the implementation of the EU IORP Directive, the law on Pensionskassen was amended. Employers and employee representatives or employees can agree to an opt-out provision from a minimum return. Investment regulations were relaxed and are now based on the Prudent Person Principle, with some restrictions (a maximum of 70% can be invested in equities). However, Pensionskassen guaranteeing a minimum return cannot invest more than 50% in equities.

1.3 Employment Status of Researchers
Civil servants and public-sector employees must be covered by a pension plan implemented by a pension fund. A federal pension fund covers civil servants and public employees. Researchers with civil servant status are rare.

1.4 Implications for Researchers’ IORP
If a cross-border researchers pension fund meets all statutory requirements, researchers can join such type of fund.
2. Bulgaria

In 2000, the Social Insurance Code was adopted, with continuing amendments in each of the following years until 2005. The new code created a universal social insurance system and a system of mandatory individual accounts for all employees born after December 31, 1959. The mandatory individual accounts were implemented in January 2002. Individuals who are self-employed, free-lance professionals, artists, farmers, or craftsmen also have accounts.

Since January 2000, employees in certain professions are covered by occupational pension plans, which provide early pension benefits as compensation for hazardous work conditions. Contributions to individual accounts are fully covered by the employer. The contribution rates are revised and announced annually in the state budget.

Since January 2002, a portion of the pension contributions is allocated to a supplementary retirement fund for all employees born after December 31, 1959. The contribution is split between employers and employees in accordance with the social security contributions split. The NSSI collects the contributions and transfers them to one of eight “universal” funds of the employee’s choice.

The benefit is payable on normal retirement. The benefit equals the account balance with interest, less administrative fees. An early retirement payout of this mandatory supplement pension is possible. In order to qualify, an insured must have five or fewer years until normal retirement age and there must be sufficient funds in the individual account to provide a life-long pension amount at least equal to the minimum pension amount, using the normal retirement age and contribution calculation.

2.1 Social and Labor Law Implications

Benefits and Contributions

Employees (and/or employers) can make voluntary contributions to pension, survivors’, or disability benefits to open pension funds. This opportunity is available to all individuals age 16 and older, employed or unemployed. It is estimated that 10% of Bulgarian employees currently participate in the voluntary pension insurance system.

The third pillar of the pension system offers a variety of funded defined contribution plans with individual accounts. Contribution levels are determined by contract between the pension fund and the contributors (employer or individual). Participants do not have a choice of portfolios.

The pension benefit is payable on normal retirement. The benefit equals the account balance with interest, less administrative fees. Benefits may be paid out as fixed-term pensions, programmed withdrawals, or lump-sum payments. Benefits are paid out at the normal retirement age (age 63 for males and age 60 for females).

Access

Coverage is determined by collective bargaining agreements or collective employment contracts.

Investments

The pension law prescribes limits on the types of investments allowed and the amounts that can be invested in certain asset classes. Investment limits for voluntary plans are more flexible than mandatory second-pillar limits. The maximum limit for investment property is 10% (mandatory, 5%) and the limit on international investments is 20% (mandatory, 15%). The minimum limit for investment in government securities was eliminated.
2.2 Taxation and Social Charges
Contributions up to 10% of pensionable income are exempt from income tax.

Pension income from voluntary pension systems (Bulgarian or foreign) is not subject to tax if received after the taxpayer has become eligible to receive the social security pension, and the voluntary pension plan is run by a company authorized by the Bulgarian government or other EEA government. If funds are withdrawn before eligibility and the taxpayer previously deducted contributions, the pension fund provider must withhold 10% tax from the amount for which deductions were taken. Any gains realized from investment of assets are exempt from tax.

2.3 Implications for Researchers’ IORP
Under the Social Insurance Code, second-pillar pension arrangements cover all individuals (who are covered by the first pillar of the state social security), regardless of whether they are working in the private or the public sector. Additional mandatory pension security (second pillar) is implemented through participation in occupational and/or universal pension funds. These funds must be incorporated and managed by pension insurance companies that are licensed according to the procedure established in the Code. The Code expressly stipulates that pension insurance companies may include companies licensed and registered under the legislation of another Member State.

The second-pillar contributions must be made to the Bulgarian revenue authorities; the revenue authority then distributes contributions to a private fund chosen by the individual (researcher). Theoretically, it is possible to have individuals working in Bulgaria choose a cross-border pension fund, incorporated and managed by a pension insurance company registered under the legislation of another Member State, to which the Bulgarian revenue authorities would distribute the contribution made by them. However, there may be practical implications due to underdeveloped nature of the legal framework.
3. Cyprus

The second pillar consists of provident funds established by collective agreement for private-sector employees. The Provident Funds Law regulates these plans. Provident funds provide a lump sum payment at retirement, as well as for disability, termination of employment, and death. Since existing regulations do not facilitate portability across employers, the termination of employment typically results in the cash-out of benefit in a lump sum.

In January 2010, the Pension Funds Supervisory Authority issued regulations to improve the management of funds. These regulations address management qualifications, principles, and procedures and guidelines for investment. Compliance will be phased-in gradually.

Also, the Board for Occupational Pension Benefits, in consultation with the social partners, has proposed changes in benefit provision when an employee voluntarily terminated his or her employment. Typically, an employee is entitled to a lump-sum payment of his or her contributions to a fund; the payment of employer contributions varies according to the vesting period established by agreement. The Board proposes that the maximum years of work for the full payment of employer contributions be five years. For four years of work, the entitlement would be 70% of employer contributions, and for two to three years of work, the employee would receive 50% of employer contributions. Funds would be permitted to establish thresholds with a lower number of years.

3.1 Social and Labor Law Implications

Benefits and Contributions

Employers also may establish an occupational pension scheme under the Occupational Pension Schemes Law, which does permit the establishment of cross-border schemes. The government reports that the majority of occupational schemes are defined contribution. Defined benefit schemes exist in the private sector and in large companies.

The scheme is set up by agreement between the employer and employee representatives or employees.

There are no specific requirements regarding vesting; scheme rules typically address vesting. The normal retirement age is age 65; scheme rules may specify a different age. Scheme rules also specify how benefits will be paid out—usually as a lump sum or monthly benefit.

Investment

The pension scheme must have written statement of investment principles, including the measurement and management of risk. Assets must be invested according to prudent person principles. Consistent with the IORP directive, a maximum of 5% of investment may be made in the sponsoring undertaking (10% in the group of sponsoring undertakings).

The investment strategy must be reviewed once every three years.

Information Requirements

Benefit statements must be sent to members each year. Each scheme’s rules address vested rights, portability, and retirement age.

3.2 Taxation and Social Charges

Employer and employee-paid premiums for life and pension insurance and contributions to an approved pension fund or medical fund are tax deductible up to one-sixth of the taxpayer’s total taxable income. The tax deduction for life insurance cannot exceed 7% of the capital sum insured.
Cypriot-sourced pensions are subject to normal personal income tax. Individuals receiving a pension paid for services abroad can opt for a separate 5% assessment on annual pension income exceeding EUR 3,420.

Lump-sum retirement payments and gratuities, death gratuities, and compensation for death or bodily injury are tax-exempt.

3.3 Implications for Researchers' IORP
Cypriot law allows an employer (and by inference an employee) to make contributions to a cross-border IORP.

Since, the public sector is covered by a generous mandatory retirement plan. It is unusual for public-sector employees to be members of additional retirement plans. However, membership is legally possible if these employers are not required to opt-out of existing plans.
4. Czech Republic

In February 2011, the Czech Republic’s coalition government has agreed on the key principles of social security reform. A mandatory second pillar would be created, administered by privately managed or government fund (or both). Employees under age 40 would be required to contribute 3% of income to this account; for employees age 40 to age 50, contributions would be voluntary. As of 2015, the contribution rate would increase to 4%, and as of 2018, it would increase to 5%. Other changes related to old age pensions are likely to include indexation of pensions to the inflation rate and one-third of the increase in average pay and an acceleration in the increase in the retirement age for women. Currently, the retirement age for women is scheduled to increase by four months each year. The government wants the retirement age to increase by six months each year as of 2018. There would be no change to the increase in the retirement age for men, which is currently scheduled at two months each year. The target retirement ages are age 65 for men and women without children and age 62 to age 64 for women with children. Details of the reform must still be finalized. The reform plan is expected to be completed in March 2011.

4.1 Social and Labor Law Implications

Benefits and Contributions
Voluntary private pension funds were first established by the State-Contributory Supplementary Pension Insurance Act in 1994. In 2000, an amendment to this Act introduced a number of tax incentives for employers and employees and a state-provided matching bonus on employee contributions. The tax incentives and ongoing discussion on reductions to the social security old age pension significantly increased demand for this type of pension plan.

Pension contracts stipulate how benefits will be paid out in the absence of any statutory rules.

Investments
Initially, there were 44 pension funds with “qualified” pension plans. Over time, some funds merged or went bankrupt and currently, there are nine pension funds operating in the Czech Republic. Other types of voluntary pension plans are rare. Funds must offer only defined contribution plans. A minimum return is not guaranteed by law. However, if there are losses, they must be covered by any previous undistributed profits, share-capital reductions, or a reserve fund.

Effective August 1, 2009, an amendment to the law on supplementary pension plans prohibits employers from “influencing” their employees’ selection of a private pension plan provider. Employers that have established supplementary pension savings plans for employees with a specific vendor or vendors were required to revise these arrangements. Also under the new amendment, employees who switch pension fund providers before five years are subject to a fee. Any changes after five years are free of charge.

4.2 Taxation and Social Charges

An employer’s contribution to a Supplementary Pension Insurance Fund and/or private life insurance on behalf of an employee is tax deductible to the employer up to CZK 24,000, if benefits are paid after 60 months and not before the employee reaches age 60.

An employee is entitled to a tax deduction for his or her own contributions to a Supplementary Pension Insurance Fund, but the deduction only applies to contributions in excess of the first CZK 6,000. The maximum tax deduction is CZK 12,000 (provided the total contribution was a minimum of CZK 18,000).
The state makes a nontaxable contribution to each participant’s Supplementary Pension Insurance Fund, based only on contributions made by the participant personally. If the employer or the company’s social fund makes a contribution on behalf of an employee, no state contribution is paid on this contribution.

Social security contributions are not payable, by either the employer or employee, on an employer’s contribution to a Supplementary Pension Insurance Fund.

With regard to the taxation of pensions paid from a Supplementary Pension Insurance Fund, after the deduction of all contributions by the employer and employee and the contributions by the state, the pension is taxed at a rate of 15%.

Although not commonly provided, other pensions paid by an employer are taxable income to the employee at regular income tax rates, unless they are established under the Supplementary Pension Insurance Funds provisions described above.

4.3 Implications for Researchers’ IORP
Currently, there is no occupational pension system based on a contractual agreement between employers and their employees in the Czech Republic. However, this does not mean that the researchers as well as all employees may not join foreign retirement arrangements. According to Act on the Activities of Institutions for Occupational Retirement Provision from other EU Member States (Act No. 340/2006 Coll.), foreign pension funds may pursue their activity also in the territory of the Czech Republic. In addition to the state pension system, membership in the foreigner retirement arrangements is voluntary. There appear to be no legal restriction for researches (both from private and public sector) to join a pan-European solution.

Nevertheless, researchers as well as their employers are required to contribute to the social security system. As the these contributions are relatively high (the total contribution rate is 28% of gross income up to 72 times the monthly average wage—21.5% paid by employers and 6.5% paid by employees), it is possible that neither researchers nor their employers will be interested in joining additional retirement arrangement.
5. Denmark

In early 2011, the government proposed to raise the retirement age from age 65 to age 67 by 2019 and phase out the early retirement system. Under the plan to phase out early retirement, employees under age 45 in 2011 would not be permitted to retire early. Employees age 45 to age 57 would remain eligible for early retirement; however, the age at which they could retire would depend on their age when the plan is implemented. Employees age 57 and older would remain eligible for early retirement under current rules. If the early retirement plan is approved by parliament, it would be effective in 2012. The government has not formally introduced draft legislation on raising the normal retirement age to parliament.

Mandatory Occupational and Supplementary Pensions

Labor Market Supplementary Pension Plan ("Arbjudsmarkedug Tillegspension"—ATP)
This is a compulsory contributory plan for all employed persons between age 16 and age 66. The plan provides additional flat-rate old age and survivors’ benefits regardless of income. It is financed through modest employee and employer contributions.

For a full pension, 40 years of contributions are necessary (or 35 years for those contributing to the plan from inception in 1964). Therefore, full pensions were paid for the first time in 1999. A reduced pension is payable at age 65 with five years of contributions. Retirement is not necessary.

Special Pension Savings Program ("Saerlig Pensionsopsparring"—SP)
This is a compulsory savings plan to which employees contribute a small percentage of pay (1%) in exchange for a benefit at retirement that is paid out over ten years.

The SP program was introduced in 1998 (by Law 803 of October 24, 1997) as a temporary measure and was made a permanent program in 1999. Participation is mandatory for all employees; contributions to the program were suspended in 2004 as part of an economic stimulus package. Mandatory contributions may resume January 2010. Employers arrange for payroll deduction of contributions, but have no further obligation. The ATP administers the program.

A participant is eligible for a benefit at age 67. Ten annual distributions (paid monthly) are made directly to the pensioner based on his or her years of service and the program’s total assets currently under management. Upon death before age 65, the total distribution due plus interest to the date of death is paid to the deceased participant’s estate. If death occurs after the annual distributions have begun, the remaining distributions are paid as a lump sum to the deceased pensioner’s estate, with tax of 40% withheld.

5.1 Social and Labor Law Implications

Benefits and Contributions
Employers and employees may agree to establish a voluntary occupational scheme via collective agreement. The government estimates that over 80% of the workforce contributes to a “voluntary” scheme, and over 90% of these schemes are defined contribution.

To qualify for favorable tax treatment, a retirement plan must meet the conditions prescribed in the Pension Taxation Law (PBL). The PBL makes a distinction between qualified and nonqualified plans. A qualified plan must be funded through a Danish insurance company, the Danish subsidiary of a foreign insurance company, or a financial institution licensed either in Denmark or in one of the other European Union (EU) Member States. In addition, the law distinguishes between plans paying annuities and plans paying lump sums (but not between group and individual arrangements).
For industry-wide plans, waiting periods for joining a plan do not typically apply. Company plans may establish a waiting period, generally 6 to 12 months.

For plans implemented through pension funds, employee contributions vest immediately. Employer contributions vest after a maximum of 5 years; reportedly, immediate vesting is common.

Employees covered by the same industry-wide plan have full portability if they change employers. If they are not covered by the same plan, they may opt to have their rights deferred or transfer their rights to the new employer’s pension plan. Similarly, employees in company pension plans may opt to have their rights deferred or transfer their rights to the new employer’s pension plan.

Tax rules prescribe a minimum retirement age of age 60 (see 5.2 Taxation and Social Charges).

Benefits may be paid as annuities and/or lump sums.

**Access**

Employer and employee representatives in a specific industry may decide voluntarily to establish an industry-wide supplemental occupational plan through collective agreement. Participation is mandatory for all employees covered by the agreement. Admission requirements vary from plan to plan. Minimum and maximum ages for joining a plan typically do not apply.

Single employers also may voluntarily establish a supplemental occupational plan at the company level, provided they are not covered by a collective agreement creating an industry-wide plan. The plan is formally created through a ballot of the plan’s future members at the first general meeting. At least 50 employees must be covered. Participation is mandatory for all employees covered by the plan. Plans may restrict participation to certain categories of employees. Plans may define minimum and maximum ages for joining.

**Investments**

Industry-wide plans may be established through the creation of an industry-wide pension fund or through a life insurance contract. Similarly, company pension plans may be established through the creation of a company pension fund or through an insurance contract.

**Management**

Pension funds are governed by a board of directors. Fifty percent of board members are chosen from and elected by plan members.

**Information Requirements**

Members must be informed of their vested rights and projected benefits on an annual basis.

**5.2 Taxation and Social Charges**

**Qualified Retirement Annuity Plans**

The requirements for tax-qualified status differ slightly depending on the type of annuity:

- A “term certain and life” annuity (pensionsordninger med løbende udbetalinger) must have the following features:
  - It must provide a retirement pension;
  - The pension must begin at retirement age, which cannot be earlier than age 60; and
  - Payments must be made:
– For at least ten years and terminate upon the death of the annuitant; or

– For at least ten years; and

  ■ In the event of disability of the annuitant before normal retirement age; or

  ■ Upon death of the annuitant, to the annuitant’s survivors (spouse or children under age 24).

■ A “term certain” annuity must have the following features:

  — The insurance policy cannot be taken out after age 60;

  — Payments must be made in equal installments which start at age 60 (except in the case of death or disability) and terminate at age 85; and

  — Payments are made for at least ten years.

The annuity can be purchased either through an approved insurance company (in which case, the plan is called rateforsikringer i pensionsøjemed) or an approved financial institution (bank) (in which case, the plan is called rateopsparing i pensionsøjemed).

Investment income of pension funds and savings plans is taxed at a flat rate of 15%. Pension income with certain exemptions is included in personal income, taxable at normal national and local tax rates.

**Qualified Lump-Sum Retirement Plans**

Effective January 1, 2008, premiums paid to foreign pension funds are deductible if the fund is established in the European Economic area and fulfils the requirements for a qualified pension.

Two types of lump-sum plans qualify for favorable tax treatment:

■ Kapitalforsikring i pensionsøjemed—the insurance policy must be taken out between age 60 and age 70; there is some discretion in conditions for payment of the lump sum (for example, upon reaching a certain age or upon death); and

■ Opsparing i pensionsøjemed—the insurance policy cannot be taken out after age 60; payment must begin before age 60.
### Taxation of Qualified Pension Plans and Life Insurance

<table>
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<th>Type of Plan</th>
<th>Taxation of Premiums/Contributions</th>
<th>Taxation of Benefits</th>
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| Annuity      |  ■ Employer—unlimited tax relief; not taxable to the employee.  
               ■ Employee—deductible from personal income, up to the amount paid or DKK 46,000 per year, whichever is less.  
               ■ Annuity payments are taxable as personal income. |
| Lump Sum     |  ■ Employer—not taxable to the employee, but the amount reduces the employee deduction limit.  
               ■ Employee—deductible up to DKK 46,000.  
               ■ Flat rate tax of 40%. |

1Single premiums must be amortized over ten years so that one-tenth of the lump-sum premium is deductible in the year in which the policy is purchased and one-tenth in each of the subsequent nine years.
2Premiums for lump-sum plans must be added to an individual’s gross adjusted income for purposes of determining the “top tax” at the 15% rate. However, offset calculations ensure that those who are not in the top rate bracket are not taxed on these contributions.

### Nonqualified Pension Plans

Under the PBL, a certain degree of preferential tax treatment is accorded to some plans that would not qualify under normal rules. For example, investment income and lump-sum payments are tax exempt under an insurance policy with a normal retirement age of age 80 or younger and under which benefits are payable before normal retirement age only in the event of death or disability of the insured. However, premiums or contributions are not tax deductible, and annuity payments that terminate upon death of the annuitant are taxable as personal income. The same tax treatment is accorded to foreign life insurance policies if the premiums were paid by the employer and were not taxable income to the employee.

Book reserve plans are allowed, but receive no special tax concessions.

### 5.3 Implications for Researchers’ IORP

In practice, most public-sector researchers are covered by collective bargaining agreements stipulating that pension contributions must be paid to a specific pension provider. Derogation from such provisions normally requires explicit consent from the parties to the relevant collective bargaining agreement, i.e. either the specific employer or the employee’s or employer’s association. A transfer existing pension schemes to a new pensions provider maybe regarded as a material change of employment terms.

An employer that is not covered by a collective bargaining agreement but required to establish and contribute to a pension scheme may satisfy that obligation by entering into an agreement with a pension provider or by setting up a company pension fund.

If no collective agreement regulates the employees’ entitlement to pension contributions, the employer may decide unilaterally to establish a pension scheme for the employees and to modify this scheme in the future. However, if future modifications are to the detriment of the employees, the employees must be given the same period of notice as their contractual period of notice before modifications are implemented. If an employee does not wish to accept the changes, he or she is entitled to consider the notice as a notice of termination of the employment contract.

If the pension fund/pension provider is established outside the EU/EEC, it is not possible for the employee to obtain the same lenient taxation, which is applicable (provided certain conditions are met) to pension contributions paid to providers established within the EU/EEC.
Estonia restructured its old age pension system in 2001 with help from the International Monetary Fund. The current reformed system consists of three pillars:

- **“First Pillar”—Mandatory state-managed defined benefit public system financed by employer contributions that pays old age, disability, and survivors’ benefits;**

- **“Second Pillar”—Mandatory privately managed defined contribution system financed by employer and employee contributions that pays old age and survivors’ benefits. Individuals born during or after 1983 must participate. For individuals born between 1941 and 1983, participation is voluntary. However, once an individual chooses to participate, he or she cannot withdraw from the system. Payouts from this program started in 2009.**

- **“Third Pillar”—Voluntary pension accounts offered by private pension fund managers at large financial institutions or life insurance companies. The management of the funds is supervised by the Estonian Financial Supervision Authority.**

To be eligible for a first-pillar old age pension, an individual must have 15 years of covered employment and be either a permanent resident of Estonia or hold a terminal residence permit. The normal retirement age is age 63 (males) and age 60 (females) who were born in 1946 or earlier. A gradual increase in the normal retirement age is being phased in for women until it reaches age 63 in 2016.

The pension consists of three components: a base amount; a length-of-service component, calculated as the pensionable length of service acquired before December 31, 1998 times the service year value; and an insurance component, which equals sum of annual pension coefficients calculated on the basis of social contributions paid after January 1, 1999 (the annual factor is 1.0 if contributions have been paid on average pay) times the service year value.

Employer contributions to the social security system are tax deductible as a business expense. Benefits paid from the social security system are generally considered taxable income to the employee.

To be eligible for a second pillar pension, an individual must at least age 63 (males) or age 59 and six months (females), have 15 years of service, be in receipt of a first pillar pension, and contributed to the individual account at least five years before retirement.

The pension equals contributions plus accrued interest minus administrative fees. At retirement, the accumulated capital must be used to purchase an annuity. Programmed withdrawals are permissible if the pension is less than the national pension amount.

An early retirement pension is not payable under the second pillar system.

Pension income received from the mandatory funded pension is subject to a 10% income tax rate under specified circumstances.

Employees are free to choose which mandatory and voluntary pension fund they wish to join. Employers can not force employee to choose one specific fund. Mandatory pension funds can not be managed through branch office or as cross-border service (as described below).
6.1 Social and Labor Law Implications
Benefits and Contributions
Voluntary occupational plans are uncommon as employer contributions do not receive any favorable tax treatment.

Investments
Voluntary individual pension schemes can take one of two forms—pension insurance policies provided by life insurance companies or voluntary pension funds managed by asset managers.

6.2 Taxation and Social Charges
Contributions are deductible up to 15% of annual income. Pension benefits paid from annuity schemes authorized to operate in any EEA Member State are taxed at a reduced rate of 10%.

Payments made from annuity schemes may be exempt from tax if they are received when the beneficiary is age 55 or older or disability is total and permanent and, under an insurance contract, payments are made periodically (at least once every three months until the death of the beneficiary) and the payments remain the same or increase.

6.3 Implications for Researchers' IORP
In addition to mandatory funded pensions, employees are free to pay additional contributions to a supplementary funded pension (third pillar) from which they receive tax relief. Only insurers that are licensed by the government have the right to enter into insurance contract for supplementary funded pension. Supplementary funded pensions also may be provided through branch offices situated in Estonia or as cross-border service; the cross-border service provider or branch office must meet same requirements that Estonian insurers must meet and receive authorization from the Financial Supervision Authority. Voluntary contributions to a non-domestic cross-border pension fund should be subject to tax relief, if the foreign insurer (cross-border service provider or branch office) meets all necessary requirements. In this case, it is possible that employees will be interested in joining pan-European supplementary funded pension solution.

The employer and the employee are also free to make additional agreements that provide pension schemes in addition to the mandatory pension scheme (not to be confused with supplementary funded pension). In practice, this is very uncommon, because these pension contributions are not subject to any tax relief.
7. Finland

The earnings-related pension insurance system provides old age, survivors, disability, and long-term unemployment benefits for the elderly under various pension acts under the Employees’ Pension Act (TyEL). Virtually all employees in the private sector are covered under the mandatory TyEL pension program which provides earnings-based retirement, survivors’, and long-term disability benefits. Pension insurance must be taken out for all employees age 18 to age 67 and whose earnings exceed a specified amount per month.

Employers must fund these benefits through pension insurance if they have fewer than 300 employees (for plans established after July 1, 1976). Larger employers have the option to fund these benefits through pension insurance, or they may use a pension fund (multiemployer plans) or a pension foundation (single-employer plans), both of which must have credit insurance. Most pension funds are industry based. Pension foundations can fund the plans of more than one employer as long as they belong to the same group of companies.

All plans are supervised by the Ministry of Social Affairs and Health and must provide the minimum benefits described below. Employers may make voluntary contributions for additional benefits or establish a separate additional plan. All benefits from this program are fully vested and are preserved when the employee changes jobs or goes abroad. A central body called the Finnish Center for Pensions (Eläketurvakeskus) oversees the insurance establishments administering TyEL pension plans.

Employer contributions for TyEL pensions are tax deductible and are not counted as income to covered employees. Employer contributions to an employee’s savings plan are tax deductible for the employer, but are taxable income for the employee.

Employee contributions to the TyEL program are tax deductible. TyEL pensions are taxed as earned income.

7.1 Social and Labor Law Implications

Benefits and Contributions

Given the strength of the TyEL scheme, voluntary occupational pension schemes are uncommon. Voluntary plans often involve paying additional contributions to TyEL.

Plans can be defined benefit or defined contribution.

Investments

There are three funding methods for voluntary schemes: pension funds, pension foundations, and group insurance. A pension foundation manages the contributions from a single employer; a pension fund covers the employees of multiple employers typically in the same industry. Three hundred members are need to establish a pension fund or foundation. The majority of plans are financed by group insurance contracts. Employers must choose a group insurance contract if they have fewer than 300 employees covered in a plan.

7.2 Taxation and Social Charges

Employment pensions and annuities are taxable as earned income. Pensions received on the basis of private insurance purchased by a lump-sum payment are taxable as earned income according to a scale based on the age of the beneficiary when the payment is made—60% taxable for a beneficiary under age 44 to 10% taxable for a beneficiary age 92 or over.
Pension income stemming from voluntary pension insurance purchased by an employer is treated as earned income.

Income from voluntary pensions purchased by the taxpayer was treated as earned income until 2004. Under transitional rules in effect until 2009, portions of the income were treated either as earned income or income from capital. From 2009, the income is deemed income from capital. Pensions received on a contract effective before May 6, 2004 and on the basis of premiums received through 2005 continue to be treated as earned income. Effective January 1, 2010, the tax treatment of voluntary pension insurance applies to income received from qualifying long-term savings plans. The income from the plan is taxed as income from capital when received by the taxpayer at retirement. Insurance premiums and contributions to savings plans are deductible in computing income from the income from capital category if the following conditions are met:

- Beneficiary receives payment after reaching the normal retirement age (age 63) or before in the event of unemployment which lasts at least one year, divorce, or death of a spouse. Early withdrawals also are permitted if the beneficiary becomes permanently disabled due to an illness or accident;

- Payments are received in installments in the ten years following retirement. If retirement is deferred, the beneficiary may receive the payments in fewer than ten years but less than six years following retirement; and

- The premiums and contributions are paid to an insurance company resident or established in European Economic Area country or to a financial institution that is resident or has a permanent establishment in Finland.

The maximum annual deduction is EUR 5,000.

On May 31, 2010, the tax authority issued guidance on the tax treatment of voluntary pension and long-term savings plans, made retroactive to January 1, 2010. A 50% tax is imposed on principal and interest if withdrawals are made before the individual reaches normal retirement age or the funds are transferred to a nonqualified plan. Contributions made on behalf of a spouse are not subject to gift tax if they do not exceed EUR 5,000.

7.3 Implications for Researchers’ IORP

There are no statutory restrictions regarding a Finnish researcher’s right to participate in an additional pension scheme provided by a cross-border service provider. However, due to the quality of the statutory and mandatory pension schemes, it is not typical for the Finnish employees to have additional pensions.

Finland has implemented all the relevant directives regarding cross-border provision of financial and insurance services. A pension fund established within the EEA is generally entitled to operate in Finland provided that requirements established by law are met. Foreign service providers may offer services in Finland either directly or by establishing a Finnish branch. If the services are offered from abroad, an advance notification must be made to the Finnish Financial Supervisory Authority. Should the service provider wish to establish a Finnish branch, the notification obligation remains, even if the requirements relating to the notification are not the same.
8. Greece

There are several “auxiliary” pension funds in Greece which are mandatory for various professions or occupations. Employers are required to contribute to these auxiliary pension funds under various collective bargaining agreements, in addition to a primary social security organization such as IKA-ETAM.

A large employer may contribute to several different auxiliary pension funds on behalf of different groups of employees. Each auxiliary pension fund has different levels of benefits. Some provide old age pensions, some only death and disability benefits. In addition, a few provide health care benefits.

All auxiliary pension funds must provide a vested benefit for employees who leave service. Both male and female employees are fully vested after 15 years of contributions; the pension is payable when the employee is eligible to receive the full social security pension.

The government announced that auxiliary funds covering employees within the same industry sector will be required to merge into a common industry auxiliary fund, or they will automatically be incorporated into IKA-ETAM. The date for merging funds has not yet been determined. In addition, if the common industry auxiliary fund does not have a system of recording contributions paid to individual accounts within one year of its establishment, the fund will be merged with IKA-ETAM.

**IKA-TEAM**

The auxiliary pension fund known as IKA-TEAM is mandatory for all private-sector employees if they participate in IKA-ETAM, but do not participate in any other auxiliary pension fund. The IKA-TEAM pension fund began operations on February 1, 1983 and was later affiliated with IKA-ETAM.

The minimum eligibility conditions are 4,500 days of contributions and the claimant also must meet the eligibility requirements for a social security old age pension from IKA-ETAM. There are different formulas for the IKA-TEAM pension for those who joined IKA-TEAM before January 1, 1993, and those who joined on or after that date:

*Employees Who Joined IKA-TEAM Before January 1, 1993*

The formula is:

\[ \text{Minimum daily wage} \times 25 \times 9\% \times (1 + 12\% \times (\text{Ratio A} - 1)) \times (1 + \text{Ratio B} + \text{Ratio C}) \]

Ratio A: Insurance class of the insured prior to retirement

Ratio B: 4% times the years of coverage between five years and 25 years.

Ratio C: 3% times the years of coverage between 25 years and 50 years.

*Employees Who Joined IKA-TEAM on or After January 1, 1993*

The formula is:

\[ \text{Pensionable earnings (average of final five years)} \times 0.571\% \times \text{Years of Contributions} \]

IKA-TEAM pensions are paid 14 times a year and are indexed to increases in civil service salaries.
8.1 Social and Labor Law Implications
Benefits and Contributions

Law No. 3029, enacted on June 20, 2002, introduces the concept of voluntary employer-sponsored pension plans.

To date, few, if any, employers have established pension funds. However, many employers have expressed interest in doing so once the tax and supervision environment is more clearly defined.

Investments
Under the Law, it is possible to establish occupational pension funds as nonprofit organizations covering an individual company, multiple employers, employee groups, or an industry. A minimum of 100 employees is required for establishment of a fund. Employers are required to participate on the Board of the fund for pension plans with employer contributions.

The initial investment restrictions for pension assets are set at a maximum of 10% in property, 70% in corporate shares or debt, and 20% in cash or government debt. There are no restrictions on investments in mutual funds. The maximum level of self-investment is 5%. A new department within the Ministry of Labor and Social Affairs authorizes and monitors new occupational pension funds.

Information Requirements
The funds are required to provide plan members with regular reports.

8.2 Tax and Social Charges

Employer-paid premiums to an insurance company for a group pension policy are tax deductible up to EUR 1,200 per person. These premiums are not added to the employee’s taxable income.

Employee contributions to an approved company benefit plan or premiums for individual insurance are tax deductible up to EUR 1,200 per year.

Pensions paid from employer-sponsored pension plans are tax free.

8.3 Implications for Researchers’ IORP

With regard to researchers, it will be necessary to define the notion of “researcher” in order for them to be considered as a separate branch of the enterprise. If researchers are already covered by an existing occupational insurance plan, they may decide whether or not to automatically join the newly established pan European pension fund. In any case, the participation in IKA is required.

For researchers in the public sector, it should be noted that an occupational pension plan for public-sector employees has been already established for the employees in the Ministry of Economy and Finance. These employees cannot opt out of the mandatory auxiliary plan. A pan-European voluntary plan may be established to supplement social security and the auxiliary plan.
9. Hungary

In October 2010, the parliament passed legislation that suspended contributions to second-pillar pension. It also passed the Law on the Free Choice of Pension Funds, making membership in second-pillar funds optional for individuals just joining the workforce and allowing second-pillar members to return to the first-pillar pay-as-you-go system. Transfer conditions were to be outlined in subsequent legislation.

The parliament has since passed legislation establishing these conditions. Members of statutory private pension funds had until January 31, 2011 to opt for a transfer of their second-pillar funds to the first pillar. Members who stay in the second pillar lose all future contributions made by their employer to the first pillar. Employees are still required to contribute to the first pillar. If second-pillar members opting to transfer to the first pillar have account returns that exceed inflation, they may withdraw the surplus tax free or deposit it in a voluntary pension account. If returns are below the inflation rate, the difference is credited to the amount transferred to the first pillar.

The second-pillar pension funds appealed to the European Union for a review of the government’s actions. The European Commission has stated that it will not interfere with the changes as each Member State is free to decide the pension system they wish to adopt.

The Hungarian government has indicated that rules regarding state and voluntary pensions will be clarified by the end of May 2011. It will publish how state pensions will be calculated by May 31, 2010. Also, new rules for personal savings accounts will be available.

9.1 Social and Labor Law Implications

Benefits and Contributions

Plans may be defined benefit or define contribution.

Until the effective nationalization of second-pillar funds, employer-sponsored plans typically assumed one of two forms—supplemental contributions to the mandatory second-pillar funds or contributions to voluntary pension funds (VPFs).

VPFs are usually administered by financial institutions or employers’ insurance companies. The investment structure is strictly regulated and minimum contributions vary among funds. Contributions to a VPF may be made by an employee, an employer, or both. Benefits are payable after ten years of membership, regardless of age, and can be received as either a lump sum or an annuity.

Investments

Occupational pension institutions may be established by banks, investment companies, insurance companies, or the employer (assets must be independent of other employer assets).

IORPs may be established as a private company (Zrt) or a branch established in another EU or EEA Member State. IORPs must establish a reserve to cover pension commitments.

Access

Voluntary supplemental occupational plans may be established for all employees or for a specific category of employees. The principle of antidiscrimination must be observed.
**Information Requirements**

Employees must be provided with information relevant to the pension plan when entering employment. This information must include the calculation of benefits, risk assessments, annual funding levels, and the treatment of benefits when a member leaves the plan.

**9.2 Tax and Social Charges**

To date, pension income is deductible from income tax. However, it is included in aggregate income if the taxpayer has other income in the tax year, when the part of the tax calculated on aggregate income that pertains to pension income is deducted from total tax. Contributions to pension plans and insurance premiums are not deductible but may qualify for tax credits.

Similarly, 30% of payments made to advance savings accounts for pension purposes may be refunded up to HUF 100,000 (HUF 130,000 for individuals who reach normal retirement age before January 1, 2020). Effective January 1, 2010, income derived from advance savings accounts may qualify for favorable tax treatment (10% tax) if funds are held for at least three years. If funds are held for five or more years, income derived from the account is not subject to tax. For amounts received from a private pension fund, a credit is available equal to 50% of the amount of tax calculated by applying the highest progressive rate, up to a maximum of the tax due.

The government has indicated that new tax rules may be issued in 2011.

**Supplemental Contributions to Mandatory Pension Funds**

Supplemental voluntary contributions are permitted to a mandatory pension fund up to a combined maximum of 10% for the employee’s own contribution and the supplemental contribution. If an employer makes the supplemental contribution, it must be an equal percentage for all his/her employees. If the employer does not make a supplemental contribution, the employee may contribute up to the 10% maximum.

Given the uncertainty surrounding second-pillar funds and the second-pillar fund market, it is not clear how viable an option this is going forward.

**Voluntary Pension Funds**

Pension income is deductible from income tax. However, it is included in aggregate income if the taxpayer has other income in the tax year, when the part of the tax calculated on aggregate income that pertains to pension income is deducted from total tax. Contributions to pension plans and insurance premiums are not deductible but may qualify for tax credits.

**9.3 Implications for Researchers’ IORP**

It is possible to affiliate researchers employed in the private sector to an occupational pension plan that is governed by a Pan-European Pension Fund (some administrative conditions may apply to the pension fund itself, which need to obtain a Hungarian VAT number). According to the relevant legislation, employers are required to contribute to the fund on behalf of all employees. The act may be interpreted as limiting participation to an objective category of employees; however, the legislation is very recent and there is no case law yet in this respect. Employers’ contributions to an occupational pension plan are limited to 10% of the gross salary. Above this amount, they are considered a benefit in kind, subject to different taxation and social security charges.

Although the same rules apply to the public and private sectors, it may be more difficult to affiliate only public-sector researchers to an occupational pension plan governed by a pan-European pension fund since the principle of discrimination is applied more strictly in the public sector. In other words, it would be more difficult to defend the affiliation of a specific category of persons employed in the public sector, at the exclusion of the others.
10. Iceland

All employees and self-employed individuals are required to participate in an occupational pension fund under Icelandic law. Employers are permitted to select their own occupational pension fund only if permitted under collective agreement. Occupational pension funds are required to provide old age pensions, survivors’ benefits, and long-term disability benefits.

Employers must contribute 8% of gross salary and employees must contribute 4% of gross pay. Contributions are paid into two accounts—a defined benefit account and a defined contribution account. Each of the authorized pension funds determines how to allocate contributions between the two accounts; however, the defined benefit account must provide a minimum pension equal to 56% of average earnings, paid for life. The defined benefits are adjusted according to the financial position of the fund and linked to the Consumer Price Index.

Benefits from the defined contribution accounts equal contributions plus earnings.

Old age pensions are paid as a lifetime annuity; there is no lump sum option. Benefits are payable when the employee reaches the normal retirement age (reduced benefits are payable at age 65).

Employee contributions are tax deductible up to 4%. All contributions made by public-sector employers are tax deductible. Pension investment income is not taxable. Pension benefits are taxed as employment income.

10.1 Social and Labor Law Implications

Benefits and Contributions
Since 1999, all employed persons in Iceland, age 16 to age 70, have the right to establish individual retirement accounts with the occupational pension fund to which they pay statutory contributions or with other authorized institutions.

Employers may sponsor supplementary pension plans, per collective agreement. In most cases, these employer-sponsored plans are defined contribution arrangements, to which employees must agree to match employer contributions. The Ministry of Finance must approve voluntary employer-sponsored arrangements.

An individual may withdraw his or her savings once he or she reached age 60. The payment of savings and interest is in the form of equal installments over a period of at least seven years or the length of time remaining before the individual reaches age 67. In other words, individuals receive a temporary annuity, which is guaranteed until age 67. Individuals retiring after age 67 generally receive a lump-sum payment.

Investments
Occupational retirement pension funds are legal entities operating on a funded basis, established separately from the sponsoring undertaking. It must be registered with the Financial Supervisory Authority. Occupational funds must have at least 800 members. Commercial banks, savings banks, securities undertakings, and life insurance companies may be authorized by the FSA to manage and administer voluntary schemes.

Pension funds that operate voluntary schemes are not required to be located in Iceland, provided that they fulfill the conditions established by the Pensions Act and are established and licensed in another state of the EEA or Member State of the European Free Trade Association Treaty.
With regard to investments, prudent person principles must be observed. Investment in the sponsoring undertaking cannot be more than 5% of the portfolio as a whole (10% if the sponsoring undertaking belongs to a group).

Funds must have a reserve fund that exceeds the fund’s obligations in cases where the fund bears a biometric risk or where certain benefits or investment performance has been guaranteed.

Contributions paid into a life insurance scheme or other voluntary pension savings scheme run by a company without a specific pension fund license are not tax deductible. Returns from these schemes are considered investment income and taxed accordingly. The withdrawal of contributions at retirement is tax exempt. Employer contributions are treated as payment of wages.

**Information Requirements**

Occupational retirement pension funds are required to provide members and beneficiaries with the following information upon request:

- Information regarding investment policy principles, including risk measurement methods, risk management processes, and strategic asset allocation with respect to the nature and duration of pension liabilities;

- Where the member bears investment risk, detailed and thorough information regarding investment options, if applicable, and the actual investment portfolio as well as information on risk exposure and costs related to investments; and

- Detailed information on arrangements relating to the transfer of pension rights to another occupational plan in the event of termination of employment.

On retirement or when benefits are due, beneficiaries must receive information on the benefits and options for payment.

**10.2 Taxation and Social Charges**

Voluntary pension plan contributions are deductible up to 6% of total employment income. The maximum deduction that an employee can take is 4% of employment income. Employer contributions up to 2% of employment income are deductible. Contributions must be paid on a regular basis.

**10.3 Implications for Researchers' IORP**

Researchers in Iceland are free to join a cross-border IORP as long as the investment vehicle is authorized to operate in an EU or EEA Member State. Employees are still required to participate in and contribute to mandatory occupational plans.
11. Latvia

The social security system consists of a pay-as-you-go notional defined contribution scheme and a funded defined contribution scheme. Membership in the funded defined contribution scheme is mandatory for individuals born after July 1, 1971 and voluntary for those born between July 1, 1951 and June 30, 1971. The systems are funded through employer and employee contributions; of the total 20% contribution on gross pay that is dedicated to old age pensions, 18% finances the notional accounts and 2% finances the funded individual accounts. The distribution of these contributions was expected to change in 2011 to 16% to the notional accounts and 4% to the funded accounts; however, due to the economic crisis, the government has postponed this change. (The total social security contribution in 2010 is 35.09%—11% paid by employees and 24.09% paid by employers.)

11.1 Social and Labor Law Considerations

Benefits and Contributions
Voluntary occupational plans are not common in Latvia; the pension fund industry reports that 5% to 7% of employers offer their employees an additional pension plan. Defined benefit and defined contribution plans may be offered; the majority of plans appear to be defined contribution arrangements set up with an open pension fund.

Pension funds may not guarantee a rate of return. Fee levels are not regulated. Benefits may be paid as lump sums, phased withdrawals, or life annuities. Members are entitled to all of the capital accrued in his or her account. A voluntary plan may not specify a retirement age that is below age 55, unless authorization has been received from the Cabinet of Ministers. The normal retirement age is age 62.

Access
Employers are required to cover all employees in the plan, in accordance with their profession, length of service, and other objective criteria. The legal relationship between employers and employees as the result of the implementation of a pension plan is governed by a collective agreement or employment contracts.

Management
Employers that offer voluntary plans must establish a pension scheme committee, with equal representation for the employer and employees, in companies where 100 or more employees are covered by the scheme.

11.2 Taxation and Social Charges
Voluntary plans receive tax favorable treatment. Employer and employee contributions up to 10% of annual income are tax deductible. Investment income is taxed.

11.3 Implications for Researchers’ IORP
Researchers may choose to participate in a pan-European pension fund, in addition to the mandatory state pension schemes. Upon mutual agreement, contributions can be made by the employer on behalf of and for the benefit of the employee.
12. Liechtenstein

The social security system consists of a pay-as-you-go defined benefit system and a mandatory occupational pension system, which may be defined benefit or defined contribution. Both systems provide old age, disability, and survivors’ pensions. The first-pillar system is financed through employer and employee contributions—each pay 3.8% of gross earnings for old age and survivors’ and 0.75% for disability.

The retirement age is age 64. The contribution period for a full pension varies according to the individual’s age cohort, and benefits are based on average annual earnings during the total coverage period. In 2011, the minimum monthly pension CHF 1,160 and the maximum monthly pension is CHF 2,320.

Old age, disability, and survivors’ pensions are subject to income tax, but 70% tax allowance is granted. Contributions are deductible.

12.1 Social and Labor Law Implications

Benefits and Contributions

Employers are required to establish an occupational pension plan for their employees or join an “open” plan established and offered by a financial institution.

Employers must affiliate all “covered” employees; employees cannot opt for another pension institution.

All employees covered by the first pillar must be covered by the second pillar, as long as their annual earnings exceed CHF 20,530. Coverage for old age pensions is mandatory from age 23 if the employment contract exceeds three months. Coverage for disability and survivors’ pensions is mandatory from age 17.

The system is financed through employer and employee contributions. Employers contribute 8% of total payroll or 6% of covered earnings for each insured employee. Employers also must cover 50% of the cost of administrative fees. Employees contribute 6% of covered earnings and 50% of administrative fees. Covered earnings include income from CHF 20,520 to CHF 82,820, minus a tax allowance of CHF 13,260 (2010 amounts). Pension scheme rules may establish a higher upper threshold of allowable covered pay as well as higher contribution rates.

Employer contributions financing minimum benefits and employee contributions vest immediately. If the pension fund/plan provides for retirement benefits above the statutory minimum, 20% of employer contributions to the benefits exceeding the minimum vests after five years of membership. This percentage increases by 4% each year so that full vesting occurs after 25 years.

Contributions are portable—upon terminating employment, members may transfer the cash value of their vested contributions or benefits to the pension institution of their new employer. For defined benefit plans, the transfer amount equals the capital that would be necessary to purchase from the same pension institution the vested benefits accrued by the member at the time of termination of employment. For defined contribution plans, the transfer amount equals the vested employer contributions and employee contributions plus interest.

Typically, benefits are paid as an annuity; however, pension institution may provide for a lump sum at retirement. If a pension institution’s rules provide only lump-sum benefits, the lump sum must equal 100% of the cash value of the member’s vested rights. If the pension institution permits members to choose between
a lump sum and an annuity, the lump sum must equal at least 90% of the member’s vested rights. Members must make their choice at least three years before retirement.

Management
Employers and employees participate on equal terms in the organs of the pension scheme that determine the selection of the risk carrier, the issuance and amendments of rules and regulations, funding, and asset management. If equal participation is not possible due to the structure of the pension scheme (e.g., a collective foundation), the Financial Market Authority may approve another form of representation.

The organs appoint a chairperson among their members. If the employer covers the full internal administrative costs of the pension scheme, then it may appoint the chairperson. Resolutions regarding the selection of risk carrier, issuance and amendments of rules and regulations, termination of association agreements with a collective foundation, dissolution of a pension scheme, or merger of a scheme with another may not be made if all employee representatives or employer representatives participating in the decision object.

Scheme rules and regulations must specify the type and amount of insured benefits, contributions, vested pension benefits, and procedures in the event of partial liquidation.

12.2 Taxation and Social Charges
Contributions to occupational pension schemes are deductible up to 12% of taxable income. Benefits from mandatory occupational plans are subject to income tax but a 30% tax allowance is granted. Lump-sum benefits are taxable at a special rate. In the event of transfer of employment, accrued amounts are exempt from tax as long as they are reinvested within two years in a new pension fund.

Benefits from the dissolution of a vested benefits policy or a blocked account established for the use of vested benefits arising from occupational retirement provisions are considered taxable income.

12.3 Implications for Researchers’ IORP
In 2007, the government published the Law on Supervision of Institutions for Occupational Retirement Provision and related ordinances. Institutions for occupational retirement provision licensed by the Financial Market Authority or by the relevant authority in an EU or EEA Member States are permitted to operate in Liechtenstein.

Researchers in Liechtenstein may participate a supplementary occupational pension scheme sponsored by an employer. Employers must continue to enroll and employees must continue to participate in mandatory occupational scheme. Since contributions are tax deductible up to mandatory contribution levels, supplementary occupational plans are not common.
13. Lithuania

The social security system has two tiers—a pay-as-you-go defined benefit system and a mandatory funded defined contribution system. It is funded by employer and employee contributions—23.3% of gross pay is paid by the employer and 3% of gross pay is paid by the employee. The first tier consists of a flat-rate basic pension and a supplementary pension based on years of service, individual pay, and the average insurable income in the country.

The mandatory funded defined contribution system was introduced in 2004. Individuals can voluntarily opt to divert a portion (2%) of their total contribution to an individual account. Once an individual joins this system, he or she cannot opt out. An estimated 50% of individuals joined the defined contribution system. Members must use their accumulated assets to purchase a life annuity from a pension company. A lump-sum payment or programmed withdrawals are possible only if the amount remaining is sufficient to purchase an annuity equal to the basic pension.

Eligibility requirements are age 62 and six months for males and age 60 for females, each with 30 years of contributions for a full pension.

Employer and employee contributions are tax deductible. In June 2010, the government introduced draft social security reforms. The retirement age for males and females would increase to age 65 by 2026, and a stronger contribution-benefit link would be established through the creation of notional individual accounts or a point system.

13.1 Social and Labor Law Implications
In 2006, the government passed the Law on the Accumulation of Occupational Pensions; however, the government reports that no occupation scheme has been established.

In general, occupational pension plans are treated similarly to third-pillar pension plans (i.e. voluntary scheme on top of social security contributions that may be sponsored by the employer or employee or both).

13.2 Taxation and Social Charges
Contributions to voluntary savings plans are tax free up to 25% of annual income.

Investment income is tax free. The following pension benefits are exempt from tax: pensions received from social security; pension annuities received from life insurance companies; and pensions received from private pension funds or life insurance companies as a result of participation in the mandatory defined contribution system.

13.3 Implications for Researchers’ IORP
Private-sector employees may become members of a pension association. The Law on Accumulation of Occupational Pensions does not specify any occupational groups. Consequently, it is difficult to ascertain whether researchers would be defined as an objective group.
14. Luxembourg

14.1 Social and Labor Law Implications
Benefits and Contributions
Given the comprehensiveness of social security pension benefits, occupational and private pension plans are not common. Occupational plans are largely limited to foreign or very large industrial or commercial companies and in the financial industry.

Employees are entitled to vested rights after ten years of membership, as established by scheme rules. If an employee leaves a scheme before retirement age, he or she may choose where the vested rights are transferred. Accrued benefits also may be paid as a lump sum, provided specified conditions are met.

Access
Membership in a pension scheme is compulsory for all employees falling within scheme rules and fulfilling conditions for membership.

Investments
Employers have three options for establishing a pension scheme—book reserve, pension fund, or group insurance. With regard to book reserves, if the scheme is partially funded with employee contributions, the financial management of the scheme must be outsourced. Pension funds are required to be a separate legal entity from the sponsoring employer in the form of a mutual fund, cooperative society, a cooperative society established as a limited liability company, or a nonprofit organization.

Information Requirements
Employers are required to provide employees with an annual summary of their vested rights and the option to transfer those rights in the event of termination of employment.

14.2 Taxation and Social Charges
Effective January 1, 2000, the law on taxation of employer-sponsored pension plans was modified significantly. Under the old rules, employer contributions to both book reserve and insured plans were tax deductible for the employer. Employer contributions to an insured plan constituted taxable income to the employee. Under the new rules, employer contributions to employer-sponsored pension plans are tax deductible provided they do not exceed 20% of the employee's normal annual compensation. The limit is applied on an individual basis. The employer's contribution is subject to a flat 20% tax, payable by the employer.

Employee contributions are tax deductible up to an annual limit of EUR 1,200.

Benefits may be paid as a lump sum or an annuity. Lump-sum benefits and the lump-sum equivalent on an annuity are tax free.

14.3 Implications for Researchers' IORP
Researchers may join a cross-border researchers pension fund provided each employer and the pension fund objectively defines “researcher.” Indeed, employers may only affiliate their employees to different pension funds if the employees are classified in different categories through the use of objective criteria. Distinctions should not be give rise to illegal discrimination (i.e. discrimination which does not result from an objective criterion and which is not reasonably justified). Provided that these conditions are met, in principle, all cross-border researchers meeting the affiliation conditions may automatically be affiliated to the pension fund.
If researchers are already affiliated to a pension fund by their employer, the latter may, in principle, freely choose to affiliate researchers to the cross-border researchers' pension fund or grant them the right to remain under their current pension fund. The employer would have to request the nonbinding opinion of the staff delegation or of works council (if any) and notify the change to the concerned employees. The employer also must follow the rules and conditions of the researchers’ current pension fund in order to be able to disaffiliate these employees from the pension fund.

However, if the change of pension fund would be detrimental to the participants (e.g. loss of right, increase in employee contributions, etc.), the employer may not impose the change on the researchers, except if this change occurs due to legal changes in social security or tax or if the general economic situation or the company’s financial situation make the employer’s contributions to the current scheme excessive. If the change in scheme implies an increase of the researcher’s contributions, the researcher has the right to refuse participation in the new pension fund and remain affiliated to his current pension fund.

Similar rules apply to the public sector. However, it should be noted that public bodies and public administrations (e.g. states, municipalities, etc.) may not establish or affiliate their civil servants to pension funds offering supplementary pension rights exceeding the level of pension rights that may be granted to civil servants by their statutory pension scheme.
15. Malta

The social security system is a pay-as-you-go defined benefit system that provides old age, disability, and survivors’ pensions for the employed and self-employed. It is funded by employer and employee contributions, which are partially matched by the government. Employers and employees each contribute 10% of pay up to a specified earning ceiling.

The normal retirement age varies according to date of birth: age 61 (males) and age 60 (females) if born before December 31, 1951; age 62 (males and females) if born from 1952 to 1955; age 63 (males and females) if born from 1956 to 1958; age 64 (males and females) if born from 1959 to 1961; and age 65 (males and females) if born on or after January 1, 1962. The retirement system is referred to as the “two-thirds” system—the retirement benefit equals two-thirds of average income for the best three years in the final ten years of employment, with 30 years of contributions. As a result of reforms introduced in 2006, the basis on which pensionable income is calculated will change to the best ten years in the last 40 years, and the contribution period will gradually increase to 40 years by 2026.

In December 2010, the Pensions Working Group issued its “Strategic Review on the Adequacy, Sustainability, and Social Solidarity of the Pensions System.” The Working Group recommended that the government introduce mandatory second-pillar pension for employees age 45 and younger. It also recommended that a voluntary third-pillar framework be established as early as possible in 2011, including incentives to facilitate private savings for retirement and portability between third-pillar and second-pillar funds.

15.1 Social and Labor Law Implications

Benefits and Contributions
Following the introduction of the “two-thirds” social security system in 1979, private pension schemes were disbanded, including 20 occupational-based schemes that had been approved by the Revenue Authority. Not surprisingly, demographic and economic variables led the government to reintroduce legislation facilitating the development of private funds (SFA), but participation has been low.

Investments
The Special Funds (Regulation) Act of 2002 (SFA) permits the establishment of retirement funds, defined as a pooling vehicle created for the principal purpose of investing contributions of one or more occupational retirement schemes or of one more overseas retirement schemes/plans. Retirement funds may be set up as an investment company fixed or variable capital. It also can be established as a multi-class company with various sub-funds or pools of assets. The SFA specifies registration requirements, investment restrictions, and disclosure rules. Subsidiary legislation to the SFA adopted in 2006 transposes the EU IORP Directive.

15.2 Taxation and Social Charges
To date, the government has not passed any legislation granting contributions to private funds tax favorable treatment, and pension income is subject to taxation at normal tax rates.

15.3 Implications for Researchers’ IORP
There are no laws precluding researchers from contributing also to a pan-European pension fund. Statutory pension contributions, however, remain payable regardless.
Effective January 1, 2011, new rules apply to individuals born in or after 1943 that make drawing a National Insurance old age pension more flexible. Individuals age 62 and over may receive pension benefits if they have earned enough pension rights. A full pension may be drawn or an individual may opt for a “pension level” (20%, 40%, 50%, 60%, or 80%). Pension levels may be changed once each year. Pension benefits will be adjusted according to calculated life expectancy in the population when the individual begins to receive his or her pension.

**Mandatory Occupational Pension Plan (AFP)**

There are no provisions for an early retirement pension from the National Insurance program. Employees in the private sector may be entitled to early retirement benefits from the Contractual Pension Scheme (AFP). The plan was established in 1988 under a Basic Agreement between the Norwegian Confederation of Trade Unions (LO) and the Confederation of Norwegian Business and Industry (NHO) to provide pension benefits for older workers who are below social security normal retirement age (age 67).

Eligible employees can claim an AFP pension anytime from age 62 until age 67. An AFP pension cannot be taken if the individual is receiving any other social security benefits. AFP (LO/NHO) benefits are coordinated with benefits from other AFP plans, personal injury insurance, and service pensions (seamen’s pensions). For workers to be eligible, the enterprise must be a party to a collective agreement with an AFP plan, and the agreement must have been in effect for at least two years. Employees must reduce their workload by at least one day per week to be eligible.

The AFP pension is based on final salary, up to a maximum of 70% of pensionable final salary.

Banks and insurance companies which are members of the Norwegian Employers’ Association for the financial sector and companies that are members of the Employers’ Association (NAVO) have their own AFP plans as do the state and local authorities. Unions in the Confederation of Vocational Unions (YS) and the Federation of Norwegian Commercial and Service Enterprises (HSH) have the option of joining the LO/NHO AFP plan. Companies which have established an insurance-based early retirement plan which provides benefits that are equal to or better than the collective AFP plan cannot join the AFP. The plan must be insured with an insurance company. Employers cannot self-insure the obligation.

AFP benefits are linked to the current collective agreement. The AFP plan is financed by employers and the government from contributions to the SLV severance plan; thus, enterprises must be members of both the SLV and AFP plans.

In 2008, the social partners agreed on revisions to the AFP system. A joint system will be established for the entire private sector. All employees will receive an AFP pension. Some of the provisions included in the agreement are:

- The AFP system will be maintained and employees that have accumulated pension rights may retire at age 62;
- Pension benefits will increase for employees who defer retirement—it is up to each individual employee to decide when he or she will retire;
- The AFP pension will be paid to employees who continue working to age 67;
Employees who retire early will be able to continue working without a reduction in pension benefits;

Changes in pension benefits resulting from new life expectancy adjustments in the reformed national insurance system will be compensated through the AFP system for employees born before 1953, and partial compensation will be awarded to employees born between 1954 and 1962; and

The new AFP system will be reviewed in 2017.

Changes to the contractual early retirement pension plan (AFP) also will be effective in 2011. The AFP pension will be paid as a lifelong supplement to the National Insurance pension. To receive an early retirement pension from AFP, an employee must be granted a National Insurance pension.

16.1 Social and Labor Law Implications

Benefits and Contributions
Effective January 1, 2006, all employers must provide a supplementary pension plan to employees. Employers may establish a defined benefit or defined contribution plan. If a defined contribution plan is established, the employer is required to contribute 2% of pay between one and 12 times the “basic amount (B.a.).” For a defined benefit plan, the level of annual pension benefits must approximate the same minimal level of benefits received under a defined contribution plan. The minimum requirement applies to employer contributions. Employees may be allowed to contribute to the new plan. The employer also must insure the plan so that disabled employees are provided with an old age pension; the insurance premium must be covered by the employer.

Public-sector occupational plans must be defined benefit schemes.

Investments
Most voluntary, employer-sponsored pension plans are funded through group insurance. Effective January 1, 2001, these plans can be funded through insurance or self-administered pension funds if they are defined benefit and through banks and investment funds if they are defined contribution with no death or disability benefits. Contributions to a self-administered fund may not be less than the premiums that would have been paid under an insured arrangement. Both types of plans must be funded on an annual level premium basis.

Unfunded or pay-as-you-go pension and death benefit plans are permissible. Benefits paid out are fully deductible by the employer at the time of payment, and the pension is taxed as income to the beneficiary. Similarly, lump sums in excess of one and one-half months’ pay are taxed as income to the employee in the year of receipt, unlike the proceeds of group life insurance, which are not taxed.

16.2 Taxation and Social Charges

Defined Benefit Plans
Employee and employer contributions to a group pension insurance plan or a self-administered pension fund are deductible, provided the plan meets certain guidelines. Employer contributions are not considered taxable income to the employee, but they are subject to National Insurance contributions. The plan must be designed in accordance with rather strict regulations intended both to safeguard pension expectations and to limit the size of payments.

In brief, a plan must conform to the following:

■ All employees of the company must be included, except part-time workers who work less than 20% of normal hours, and older employees within ten years of normal retirement age;

■ Employees age 20 and older must be admitted to the plan upon employment;
■ Maximum earnings for pension purposes may not be higher than 12 times the B.a. (pension benefits or salary over 12 B.a. must be financed through a nonqualified arrangement);

■ Plan benefits must be the same for all members within a defined group, and usually between groups;

■ Pension benefits may not be surrendered;

■ Full vesting must be granted after 12 months’ membership in the plan;

■ If the plan includes survivors’ benefits, these benefits must be payable both before and after retirement, and they must be equal for male and female employees; and

■ For plan participants who join after January 1, 2001, total retirement benefits including social security cannot exceed 100% of salary up to six times the B.a., and 70% of salary between six and 12 times the B.a.

Defined benefit plans must conform to changes in the National Insurance system, effective January 1, 2011. Employees are entitled to a flexible pension from age 62, but the annual pension will increase the longer an employee defers retirement. Pension benefits continue to accrue if the employee continues to work after the normal retirement age. A minimum “graded” pension must be taken (equal to the National Insurance basic pension); the full pension may be taken at age 62. Paid-up policies must be drawn on in full (no graded pension). Transitional rules have been introduced from employees born between 1943 and 1953. There will be no change to the calculated National Insurance pension, which is the basis for benefits in the occupational plan, and no life expectancy adjustment will be introduced.

Group and individual pension insurance benefits are taxable as general and personal income when received. National insurance contributions at a rate of 3% are applicable to all pensions in payment.

In addition to the tax relief accorded to regular contributions to a pension plan, employers with an insured arrangement or self-administered pension fund may pay up to 1.5 times the normal cost of the plan into a premium fund and receive full tax relief. However, the reserves accumulated in the premium fund may not exceed ten times the employer’s normal annual premium, and the fund assets must be used in one of the following ways:

■ To pay future annual premiums;

■ To pay bonuses to pensioners;

■ To provide pensions for employees excluded from the plan because of age; or

■ To pay disability pensions if not included under the plan or to pay disability or survivors’ pensions to employees who are not otherwise qualified under the plan.

Effective January 1, 2003, any reserve in excess of six times the annual premium must be returned to the employer. If reserves exceed three times the annual premium, returning the excess money to the employer is optional.

Employers with a group insurance plan also may set aside an additional 75% of the annual pension premium in a pension adjustment fund in order to provide post-retirement pension adjustments.
Defined Contribution Plans
A law introducing tax-effective, defined contribution plans became effective January 1, 2001. Employer contributions under qualified plans are tax deductible. For plans to qualify:

- Employer and employee contributions cannot exceed 5% of salary between two times and six times the B.a., and 8% of salary between six times and 12 times the B.a.; alternatively, a fixed contribution not exceeding 20% of the B.a. for each employee also qualifies;

- Employees age 20 and older must be eligible to join the plan from the date of employment, provided they work at least 20% of the normal work time;

- Benefits must be paid as an annuity or in at least ten annual installments at normal retirement age (age 67). If the plan includes survivors’ and disability benefits, the law specifies maximum benefit rates; and

- The insurer, if applicable, the employer, or the employee may determine the investment options under the plan. If the plan does not provide an investment choice, an annual return of 3% must be guaranteed.

Defined contribution plans also must conform to changes in the National Insurance system, effective January 1, 2011. Employees are entitled to take a flexible pension from age 62; the annual pension will increase if the employee defers retirement. Pension benefits continue to accrue if the employee continues to work. The defined contribution pension must be payable until the employee is at least age 77 and for a minimum of ten years. Up to age 75, employees can choose between programmed withdrawals and a life-long pension. A minimum “graded” pension must be taken (equal to the National Insurance basic pension); the full pension may be taken at age 62.

Pension Insurance
Employer-paid premiums for individual pension insurance are taxable as general income to the employee.

Lump-sum life insurance benefits are tax free unless contracted with an insurance company outside the European Economic Area after January 1, 1986, in which case, they are taxable at the general rate of 28%. Benefits received from a policy taken out by an employer on behalf of employees also are taxable.

Individual annuity payments (from insurance not in compliance with tax rules) are partially tax free (50% to 80%), depending on the number of years elapsed since premium payments began.

Individual pensions from qualified plans that are paid on retirement or disability or to survivors at death are taxable as general income of the recipient.

16.3 Implications for Researchers’ IORP
With the implementation of mandatory supplemental plans in 2006, the number of voluntary occupational and personal plans dropped. Researchers are free to participate in a voluntary occupational plan in the guise of a cross-border IORP. Employers must still enroll employees in a mandatory plan.
17. Portugal

17.1 Social and Labor Law Implications

Benefits and Contributions
The Portuguese Securities Market Commission reports that the occupational pension fund market is small, with approximately 4% of the labor force covered by an occupational plan. Plans may be defined benefit, defined contribution, or a hybrid. As in many countries, the current trend is toward the use of defined contribution plans.

Employer and employee contributions depend on plan rules.

Waiting periods depend on plan rules and typically vary according to the type and length of employment contract. A 6-month waiting period (same as probationary period) generally applies.

Vesting depends on plan rules.

Access
Plan Membership is voluntary for all covered employees.

Investments
Occupational pensions may be provided by closed or open funds and through direct insurance.

Information Requirements
Plan sponsors must provide employees with information about the plan. Members of a contributory plan must receive information on the amount of contributions made by them and on their behalf and on accrued rights.

17.2 Taxation and Social Charges

Premiums paid by an employer for group life insurance, pensions, and other supplementary retirement benefits are taxable to employees. Employer-paid premiums and contributions of up to 15% of payroll are tax deductible for employers provided certain conditions are met including:

- Plan is externally funded;
- Plan is nondiscriminatory;
- Benefits are extended to all employees after the employee probationary period has been met;
- Benefits are paid from the social security retirement age; and
- Benefits are paid as annuities.

Employees are entitled to a tax credit for contributions to private pension plans. The credit equals 20% of the contribution up to EUR 400 for taxpayers that are under age 35; EUR 350 for taxpayers that are age 35 to age 50, and EUR 300 for taxpayers that are over age 50.

Pensioners are permitted to deduct the first EUR 6,000 of their pension or annuity income. For pensions with an annual gross amount that exceeds EUR 22,500, the EUR 6,000 deduction is reduced by 20% of the difference between the amount of the pension and EUR 22,500. The capital portion of annuity payments is
not taxable to the employee. If differentiation of capital and interest income is not possible, 20% of the annuity is deemed pension income.

Lump-sum benefits from employer-sponsored group life, medical, or pension insurance are taxable as investment income and subject to a withholding tax of 21.5%.

Personal retirement savings funds (PPR) may be financed by pension funds, insurance contracts, or investment funds. Effective March 1, 2008, employees may contribute to a voluntary defined contribution account that supplements the pay-as-you-go system. These accounts are managed by the same institution that handles the social security stabilization fund. Employees under age 50 may contribute 2% or 4% of average earnings in the previous month. Employees age 50 or older may contribute 6% of average earnings. Average earnings are recalculated every January. Upon retirement, the accumulated balance may be withdrawn or used to purchase an annuity. If the employee dies before retirement, the account balance is transferred to the employee’s spouse or children.

Benefits paid as periodic payments from a domestic PPR are subject to income tax as pension income on the excess over a tax-free amount of EUR 6,000. Benefits in the form of a lump-sum payment (total or partial redemption) are taxable as investment income. A withholding tax of 21.5% is levied on 40% of the investment income.

17.3 Implications for Researchers’ IORP
Researchers, working in Portugal, under an employment relationship with a Portuguese employer (including universities) or self-employed, are covered by the general security system and required to contribute. Participation in the social security system does not affect the possibility of access to complementary pension schemes, either based on a collective initiative (including professional complementary schemes) or based on an individual initiative (retirement saving plans, pension funds, life-insurances, etc.). Public-sector employees were integrated in the general social security system applicable to private-sector employees and may not opt out. Hence, access to complementary pension schemes is only permissible on a supplementary basis.

Additionally, it should be noted that contributions to non-domestic IORPs are not likely to qualify for tax relief purposes.
The social security system is a defined benefit pay-as-you-go system, providing old age, disability, and survivors' pensions. It is financed through employer and employee contributions that, effective January 1, 2011, are based on five times gross pay. Employees contribute a total 10.5% for these pensions (8.0% is dedicated to the first pillar and 2.5% is deposited in a second-pillar fund). Employers contribute 20.8%. As of December 2010, males are entitled to a full pension at age 64 with 33 years of contributions. Females receive a full pension at age 59 with 28 years of contributions.

A social security reform law was passed in 2010 as part of the government’s austerity measures. The retirement age for males and females will increase to age 65 and age 63, respectively. As of 2011, pension points are no longer be tied to average gross pay. The change to the pension point system will occur gradually. The pension point will remain 732.8. During the first phase, pensions will be 100% indexed to the inflation rate and 50% indexed to the real value of the increase in average pay. As of 2020, the latter percentage will fall to 45% and continue to decline until it reaches zero in 2030. Also, pension benefits are frozen at their 2010 levels in 2011.

To ensure long-term viability of the social security system, the parliament approved the introduction of a multi-pillar pension system. Starting on January 1, 2008, employees up to age 35 are required to contribute 2.5% of their social security contributions to individual pension accounts. The contributions are diverted from the state pension fund to private pension funds of the employees’ choice. Employees who fail to select a private pension are randomly assigned to a licensed pension provider. Employees age 35 to age 45 may opt for the diversion at any time before reaching age 45. For both groups, the diverted portion of social security contributions will gradually increase until it reaches 6% by 2016. Statutory pension benefits will be reduced proportionately to the diverted portion of the contributions. The procedures governing the payout of benefits have not yet been established.

18.1 Social and Labor Law Implications

Benefits and Contributions

The system of voluntary private pension contributions has experienced difficulties due to system delays and limited tax incentives.

Employers may establish supplementary defined contribution plans at the enterprise, industry, or group level, individually or through collective agreement.

Benefits are paid out as annuities if participants have more than 60 months of contributions. If participants have fewer than 60 months of contributions, benefits are paid out as a lump sum or programmed withdrawals over a five-year period.

Contribution levels and employee participation are defined by plan rules or collective agreement.

Investments

Plans are externally funded and administered by a pension company, investment manager, or an insurance company.

18.2 Taxation and Social Charges

Contributions to voluntary occupational pension plans up to RON 400 per year are tax exempt. The same rule applies to employer and employee contributions. Pension income is taxable (after deducting health care contributions) in excess of RON 1,000 per month.
18.3 Implications for Researchers' IORP
Romanian legislation allows employees or freelancers to participate in cross-border pension funds. However, these employees must continue to participate in and contribute to the first- and second-pillar schemes. A cross-border pension fund is likely to be attractive to these researchers if their employer contributes on their behalf or covers a portion of the contribution.

Romanian legislation does not distinguish between public- and private-sector employees. It is highly unlikely that the researchers working within the public sector would participate in a cross-border plan. Public-sector employers will not be able to contribute on behalf of their employees due to the economic crisis and the government’s austerity program. As these public-sector employees tend to receive lower wages than their private-sector counterparts, they will be unwilling to contribute on their own behalf.
19. Slovakia

Starting in January 2005, some employees are able to divert one-half of their old age pension social security contributions (9% of salary) to private pension funds of their choice. Benefits are payable after 15 or more years of contributions, provided that the minimum annuity equals 60% of the living minimum wage. If the employee fails to contribute for a minimum of 15 years, the accumulated funds will be transferred from the private pension fund to the Social Insurance Institute, and the employee will not receive any pension from the supplementary system. The government guarantees a minimum monthly old age pension equal to 40% of the average monthly wage after 25 years of contributions.

In January 2008, the government allowed individuals participating in the second pillar system to opt out and return to the first pillar during a six-month period. Employees who opt out transfer their second-pillar account balance to the first-pillar pay-as-you-go system. The social security system credits employees with the equivalent number of year contributions. In response to the ongoing crisis in the financial markets, the government moved again to allow individuals to opt out of the second pillar system, this time from November 15, 2008 through June 30, 2009.

In early 2011, the Slovak government released a draft amendment to the second-pillar social security system. Individuals would be required to enroll in the second-pillar but would be permitted to leave it within a three-year period. Pension fund administrators would be permitted to offer two funds, differentiated by risk.

Employee contributions to supplementary mandatory pension are made on a pretax basis. Pensions received from the supplementary mandatory system are fully taxable.

19.1 Social and Labor Law Implications

Benefits and Contributions

Voluntary retirement plans—individual or employer-sponsored—are managed by the DSS, which offer defined contribution plans.

Voluntary occupational arrangements are typically based on collective agreement.

Access

Slovak labor law prohibits discrimination on the basis of gender, age, categories of employees, and working hours.

Investments

Establishment and activities of supplementary pension savings companies (DSS) are governed by Law 650/2004. DSS companies must have their pension assets separated from other assets. Their investment strategies are more closely watched over by the Financial Market Authority (UFT) in exchange for more freedom in investment choices. Three types of funds with different risk-return profiles are available:

- Conservative fund (assets invested mostly in bonds);
- Balanced fund (50% of assets invested in bonds and 50% in shares); and
- Growth fund (a maximum of 80% invested in shares).

DSS companies follow the “prudent-man rule” of investment. They must invest at least 30% of their assets in government securities; foreign investment may not exceed 10% of the pension assets (limited to 20% in a
particular foreign country). On qualified withdrawal, each employee may choose to receive a lump-sum benefit or an annuity payable for a minimum of six years.

**Information Requirements**
Plan members must be provided with information on their accumulated balance annually.

**19.2 Taxation and Social Charges**
Employer premiums to voluntary pension or life insurance products are considered taxable income to employees. The employer premiums are not subject to social security contributions up to 3% of the employee’s annual salary. Contributions are tax deductible up to 6% of the employee’s assessment base.

Employee contributions to supplementary pension plans or savings plans meeting specified conditions (savings must be held for at least ten years and cannot be withdrawn before the employee reaches age 55) were tax deductible up to a specified amount each year. Effective January 1, 2011, the individual taxpayer deduction for contributions to supplementary pension plans and savings schemes was abolished.

The taxable income received from private pension plans is reduced by the contributions made, divided over the period during which the pension is payable. This period is the difference between statistical life expectancy and the taxpayer’s age when he or she first receives the pension.

**19.3 Implications for Researchers’ IORP**
There is no occupational pension system scheme in the Slovak Republic applicable to specific employers based on an agreement with the employees. The Slovak pension system is only functioning within the three pillars described in the previous paragraph. Moreover, Slovak pension system does not recognize any special pension system for researchers and no pension fund for researchers is operational.

The Slovak laws do not restrict the employee participation in foreign occupational pension systems. However, we are not aware of any instance in which employers contribute to a foreign occupational pension plan on behalf of their employees (social security contributions are relatively high in the Slovak Republic and participation in the pan-European solution would be additional to mandatory pension system). There is no case law in Slovak courts regarding this issue.
20. Slovenia

20.1 Social and Labor Law Implications
The 2000 pension law provides opportunities for supplemental retirement savings. These opportunities may
be sponsored by the employer or may be initiated entirely by the employee.

Employers in government, public service, banking, and certain lines of work designated by law as
particularly arduous or hazardous are required to offer retirement savings plans, and employees are
required to participate. In other sectors, employers may establish plans for their employees in agreement
with a representative union or works council. If neither body exists in the workplace, at least two-thirds of
employees must agree to participate.

Benefits must be paid as a life annuity.

Access
All employees of a sponsoring employer must be granted access to a pension plan under the same terms
and conditions. Discrimination is prohibited.

Investments
The investment funds may be either “closed” or “open.” Closed funds are sponsored by one employer and
must have at least 1,000 participants. Open funds are marketed and administered by approved insurance
companies, banks, or other financial institutions.

20.2 Taxation and Social Charges
For a plan to receive tax favorable treatment, it must cover at least 51% of the all employees of the
sponsoring employer and be authorized by the Ministry of Labor.

Employer and employee contributions to employer-sponsored plans, along with associated investment
earnings, are tax deferred so long as contributions are within statutory limits. Pensions and other
income-replacement benefits—unless explicitly excluded from the taxable base—are taxed as income when
received.

Employers may make additional contributions to second-pillar plans on behalf of their employees. These
contributions are tax deductible to the employer. The total employer and employee deduction to voluntary
plans (employer-sponsored or individual cannot 24% of the mandatory contribution, up to an annual limit
(EUR 2,683.26 in 2011)

20.3 Implications for Researchers’ IORP
In the private sector, researchers may be members of either a collective and/or an individual pension plan.
Researchers employed with large companies are likely to be members of a collective pension plan and may
not opt-out on an individual basis. The employer of the researchers may opt-out from such collective
pension fund but is unlikely to do so. All employees of the employer included in the collective pension plan
have the right to be included in the collective plan under the same conditions. Given this, it is not likely that
an employer will opt-out from the collective pension plan to become a member of a pension plan for
researchers.

With respect to the membership in a pension plans, it should be noted that an employee may, at the same
time, be a member of one collective pension plan and one individual pension plan.
All public-sector employees (including researchers) are members of a closed pension fund for public-sector employees and are unable to opt-out of this pension plan. Public-sector employees may pay additional premiums to either this closed pension fund for public-sector employees or other pension funds and receive tax relief (if the pension fund fulfils certain criteria and is registered with the Ministry for Labor, Family and Social Affairs). Provided that a foreign (cross-border) pension plan meets the requirements of the relevant Slovenian legislation, additional premiums to foreign (cross-border) pension plan can be paid, but such payments do not necessarily give tax relief to the insured person.
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