

MoveS

project presentation

MoveS

EU-wide network
of independent legal experts
in the fields of
free **movement** of workers (FMW) &
social security coordination (SSC)

- Funded by the European Commission (DG EMPL units D1 'FMW' and D2 'SSC')
- 32 countries covered (EU/EEA/CH)
- Implemented by Eftheia, Deloitte Advisory & Consulting, University of Ljubljana, University of Poitiers
- Four-year project (2018-2021)

Objective 1

- To provide high-quality legal expertise in the areas of FMW and SSC
 - by means of **Legal Reports**
 - by means of monthly **Flash Reports**
 - by means of **replies to ad hoc requests**

MoveS Legal Reports 2021

- 1 *'The possibility of creating a 33rd /EU social security scheme (and its influence on the existing social security coordination rules)*
- 2 *'The relationships between social security' coordination and taxation law'*
- 3 *'Preliminary assessment of the conformity of national measures implementing Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services'*

Flash Report

- Provided to the EC on a monthly basis
- Covering national developments impacting FMW and SSC
- Based on the inputs of the 32 countries of the network

Ad hoc support

- When the investigation of specific issues requires a detailed analysis of the national legal framework

Objective 2

- To disseminate expertise and increase experts' and practitioners' knowledge
 - by organising **seminars**
 - by **sharing information**
 - by **building networks between stakeholders**

Seminars

- Ca. 10 one-day seminars a year
- 2 webinars
- Audience: Representatives of competent authorities and institutions, social partners, NGOs, judges, lawyers and academics

	Date	Country (City)
1.	22/04	Slovakia (Bratislava)
2.	30/4	Switzerland (Lausanne)
3.	27/05	Czech Republic (Prague)
4.	2/6	Slovenia (Ljubljana)
5.	11/6	France (Paris)
6.	10/9	Spain (Madrid)
7.	24/9	Bulgaria (Sofia)
8.	27/10	Cyprus (Nicosia)
9.	12/11	Norway (Oslo)
10.	25/11	Greece (Athens)

Cooperation and networking

- **MoveS webpage (EUROPA)**

<https://ec.europa.eu/social/main.jsp?catId=1098&langId=en>

MoveS LinkedIn group:

MoveS – free movement and social security coordination

<https://www.linkedin.com/groups/4291726>

Thank you for your attention!

Contact us at:

MoveS@eftheia.eu



Recent developments in the field of social security coordination at EU level

Dita Collinsová (Legal officer) and Marine Wagner (Policy Officer)
European Commission, DG EMPL
Unit E2 – social security coordination



Overview

1. Revision of Regulations 883/2004 and 987/2009
2. EU-UK relations
3. Digitalization of Social Security Coordination (EESSI/ESSPASS)



Revision of the social security coordination Regulations





State of play – formal steps

- Commission proposal adopted in December 2016
- Provisional agreement achieved between the European Parliament, the Council and the European Commission (March 2019)

<https://data.consilium.europa.eu/doc/document/ST-7698-2019-ADD-1-REV-1/en/pdf>

- No qualified majority in Council (March 2019) and postponement of first reading vote in European Parliament (April 2019)
- Decision to continue the file (October 2019) and resumption of trilogues

Applicable legislation – open topics

- Period of **prior affiliation**
- **Period of interruption**
- **Prior notification before sending**
- Reinforcement of **cooperation** between institutions



Unemployment benefits - open topics

- Aggregation: Minimum qualifying period
- Export of unemployment benefit
- Frontier workers and competent Member State



Provisional agreement: Long-term care benefits

- Common definition of long-term care (LTC) benefits
- Annex listing benefits in each Member State
- Member State of insurance will provide LTC benefits in cash and reimburse the cost of benefits in kind provided by the Member State of residence

Provisional agreement: Family benefits

- Distinction between parental leave benefits (cash benefits intended to replace income due to child-raising) and all other family benefits
- Two calculations for differential supplement (implementation of the Wiering judgment C-347/12)

Provisional agreement: Equal treatment

- Recital referring to CJEU judgments (Brey, Dano, Alimanovic, Garcia-Nieto, Commission v UK)

Provisional agreement: Miscellaneous amendments

- Procedures for recovery of unduly paid social security benefits aligned to Directive 2010/24/EU
- New legal basis to facilitate the identification of fraud and error by way of periodic exchange of personal data between Member States to facilitate data-matching

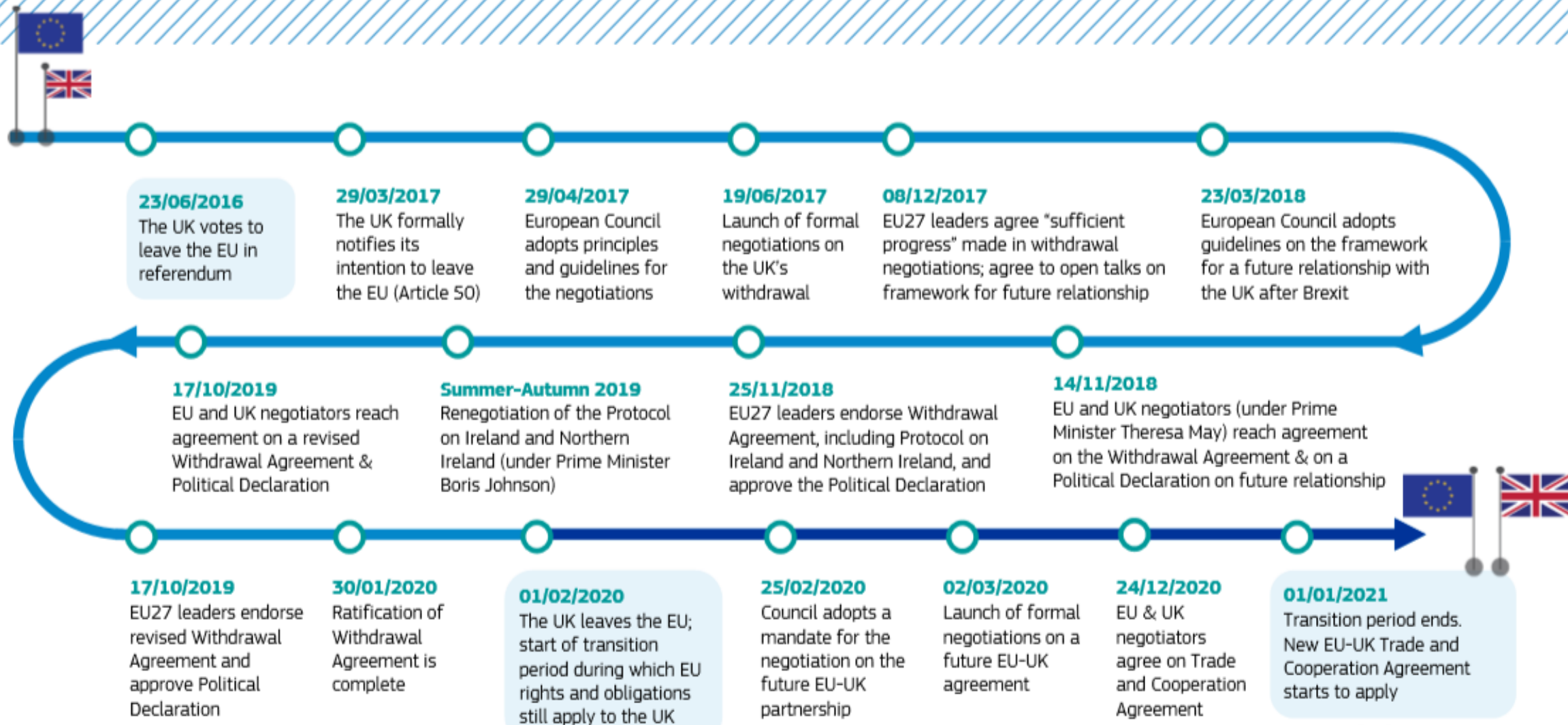
EU-UK: a new relationship



EU-UK Withdrawal Agreement
EU-UK Trade and Cooperation Agreement

EU-UK RELATIONS:

From the UK referendum to a new Trade and Cooperation Agreement





The EU-UK Withdrawal Agreement

- Entered into force on 1 February 2020
- Transitional period until 31 December 2020
- Part Two: Citizens' rights contains a chapter on social security coordination



Full Coordination (Art. 30)

Who benefits?

- Those who have continuously been in a cross-border situation involving the EU and the UK since before the end of the transition period and their family members / survivors
 - E.g. EU nationals residing or working in the UK since 2020 or earlier

Which rules apply?

- The complete social security coordination acquis (Regulations (EC) Nos 883/2004 and 987/2009)



Partial Coordination (Art. 32)

Who benefits?

- Persons who are not covered by Art. 30 but have been subject both to UK / EU social security legislation before the end of the transition period

Which rules apply?

- EU rules concerning the aggregation of periods, rights and obligations deriving from such periods
- EU rules regarding the coordination of sickness and family benefits
- General principles of the EU Regulations, such as equality of treatment



Other Aspects

- Triangulation: EU and UK have concluded agreements with Switzerland & the EEA EFTA States to protect persons in triangular situations
- UK has observer status in the Administrative Commission for the Coordination of Social Security Systems
- UK participates in the Electronic Exchange of Social Security Information for cases covered by the WA and bears the related costs
- Dynamic alignment in case the relevant EU Regulations are amended or replaced

EU-UK Trade and Cooperation Agreement (TCA)

- Agreed between the EU and the UK on 24 December 2020
- Entered into force on 1 May 2021 (already applied since 1 January 2021)



Main issues covered:

- Free Trade Agreement
- Framework for law enforcement and judicial cooperation
- Horizontal agreement on governance



Protocol on Social Security Coordination

Who is covered?

All persons who

- are or have been covered by the social security legislation of an EU Member State or of the UK
- are residing in an EU Member State or the UK
- are or have been in a cross-border situation between an EU Member State and the UK as from 1 January 2021

Protocol on Social Security Coordination

What is covered?

- Full coordination of all branches of social security coordination that are currently coordinated under Regulation 883/2004 except:
 - Family Benefits
 - Long-term care
 - Special non-contributory cash benefits
 - Assisted conception services
- Partial coordination: invalidity benefits and unemployment benefits



Protocol on Social Security Coordination

- Principle of non-discrimination between Member States
- Principle of equal treatment of persons covered
- Unicity of legislation
- Aggregation of periods of insurance/work/residence
- Waiving of residence clauses
- Sunset clause

Protocol on Social Security Coordination

- The Protocol does not apply to:
 - Situations involving a UK national moving between two or more Member States → Regulation 1231/2010 applies
 - Cross-border situations involving Switzerland, Norway, Iceland and Liechtenstein
- The Protocol applies without prejudice to the Withdrawal Agreement
- The Protocol does not provide a right to reside and to work in respectively the UK or the EU
 - Only persons fulfilling the national requirements regarding visa/residence/access to the labour market can benefit from the Protocol

Electronic Exchange of Social Security Information (EESSI) – European Social Security Pass





What is EESSI – Electronic Exchange of Social Security Information?

An IT system that helps social security institutions across the EU exchange information more rapidly and securely, as required by the EU rules on social security coordination.

Benefits of EESSI

- Faster and more efficient message exchange between social security institutions
- More accurate data exchange between national authorities
- Secure handling of personal data

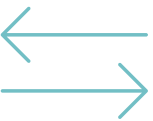
State of play



The **EESSI system was successfully delivered** by the European Commission to the Member States in **July 2017**.



The **first real case exchange** of an electronic message was between Austria and Slovenia and took place on **10 January 2019**.



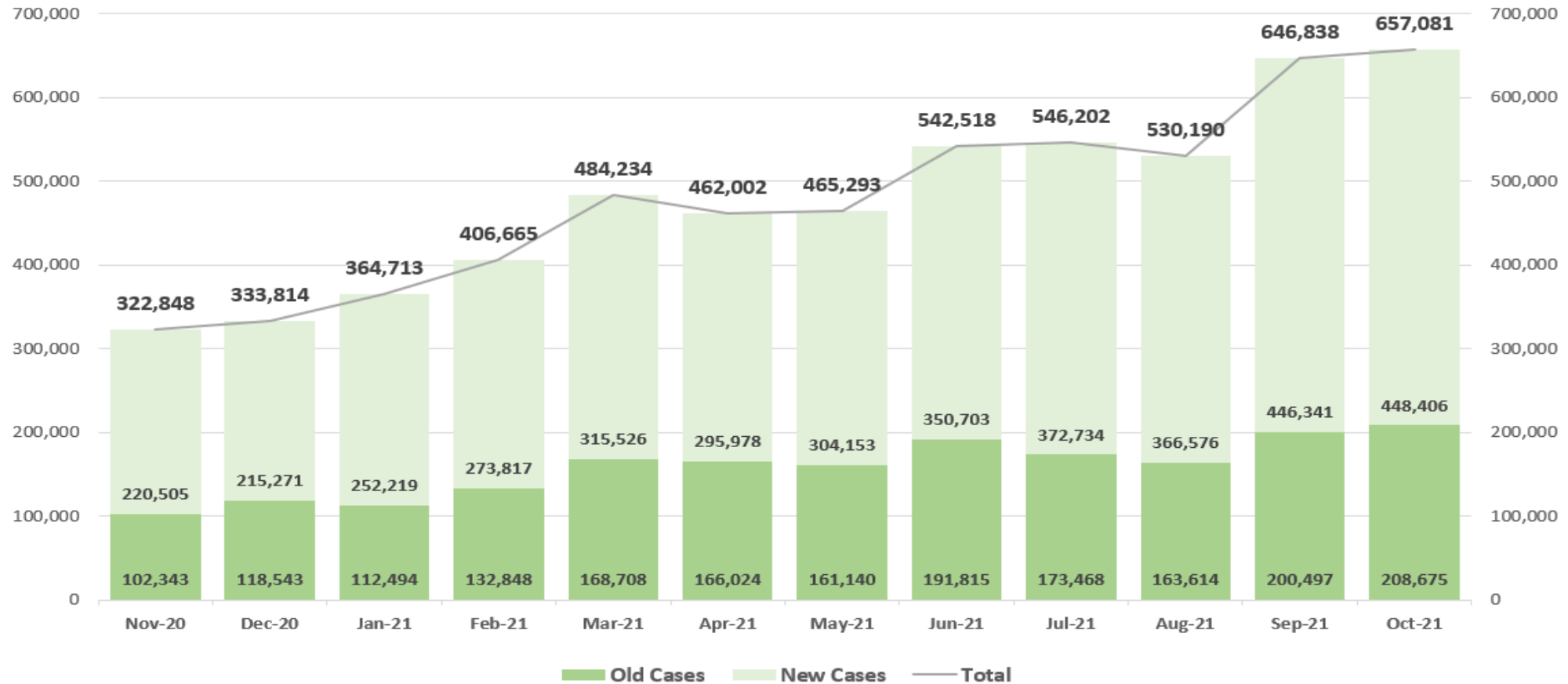
32 countries are having live exchanges between institutions.

9 countries are ready to exchange messages for all Business Use Cases.

EESSI production volume

Since EESSI start
15,377,708 SEDs
5,318,587 Cases

Monthly Active Cases Last 12 Months



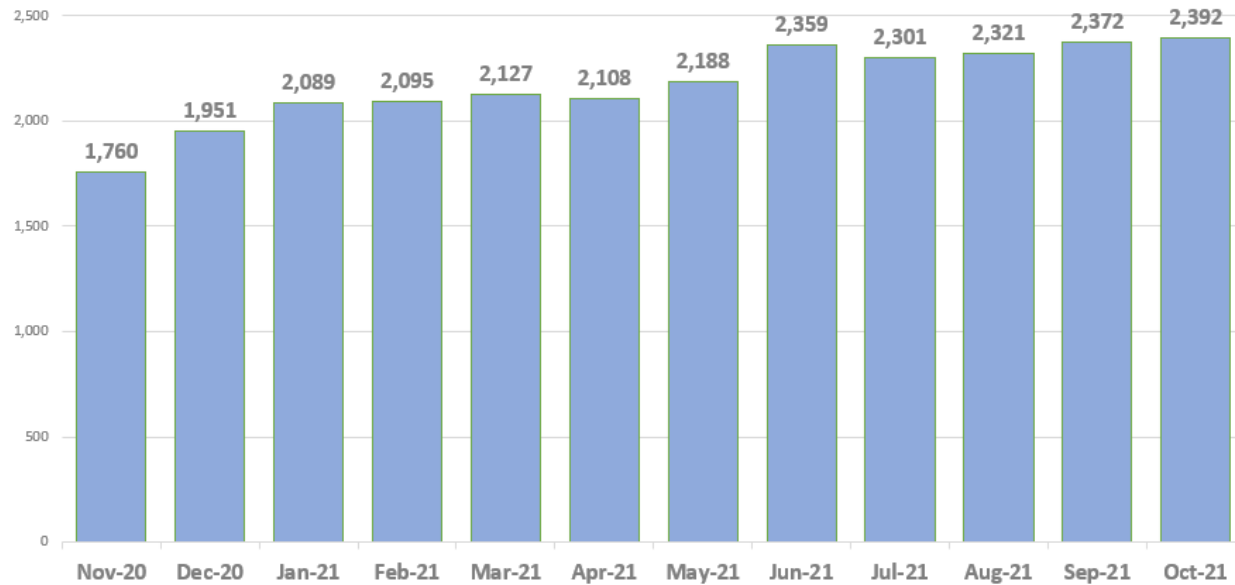
Active cases are those cases that interchanged SEDs during a specific month

EESSI Production Volume

Total New Cases by Sector per Month



Active institutions each month



- 2940 institutions exchanged so far
- 15 BUCs are now deployed by all countries
- Legislation Applicable sector now fully deployed by all institutions
- All countries 100% operational in 2023

What is the European Social Security Pass?



Blueprint for the end-to-end digitalisation of the social security coordination procedures



Leverages on existing EU and national digital initiatives (e.g. SDG, EESSI, eIDAS)

Focuses on the following three main areas:

- 1** Digitalising the processes for the request and issuance of portable documents
- 2** Improving the identification of mobile citizens and workers when performing activities abroad
- 3** Introducing real-time mechanisms for the cross-border verification of the social security entitlements of mobile citizens and workers

ESSPass PILOT

What?

Procedures linked to the request, issuance and verification upon request of the PD A1 (social security coverage for persons performing activities in another Member State) – extension to further procedures (e.g. EHIC, pensions, ...) in a second stage

Why?

- Prove the viability of the technical option
- Fine tune costs
- Early identify and assess legal and organisational requirements
- Mitigate and reduce risks (e.g. Fraud)

Who?

- Two co convenors:
 - INPS, largest Italian Social Security Institution
 - EC DG EMPL

How?

- Set up the pilot organisation together with interested Member States
- Target digitalisation of the request, issuance, identification and verification processes
- Perform analysis of financial, legal aspects, as well as community building and coordination activities

Digitalisation of Social Security procedures

USE CASE	SELECTION CRITERIA			
	POLITICAL PRIORITIES	# OF CITIZENS IMPACTED	COMPLEXITY	VOLUME
1. Accessing unplanned necessary healthcare abroad (EHIC)	+++	+++	+++	+++
2. Verification of social security coverage of posted workers (PD A1)	+++	+++	+++	+++
3. Registering for healthcare cover (PD S1)	+++	+++	+++	+++
4. Entitlement to scheduled treatment abroad (PD S2)	+++	+++	+++	+++
5. Medical treatment for former cross-border workers in former country of work (PD S3)	+++	+++	+++	+++
6. Periods to be taken into account for granting unemployment benefits (PD U1)	+++	+++	+++	+++
7. Authorisation to export unemployment benefits (PD U2)	+++	+++	+++	+++
8. Entitlement to healthcare cover under insurance against accidents at work and occupational diseases (PD DA1)	+++	+++	+++	+++
9. Summary of pension decisions (PD P1)	+++	+++	+++	+++

SELECTED FOR PILOTING

Some of the challenges identified:

NEED FOR PHYSICAL EVIDENCE

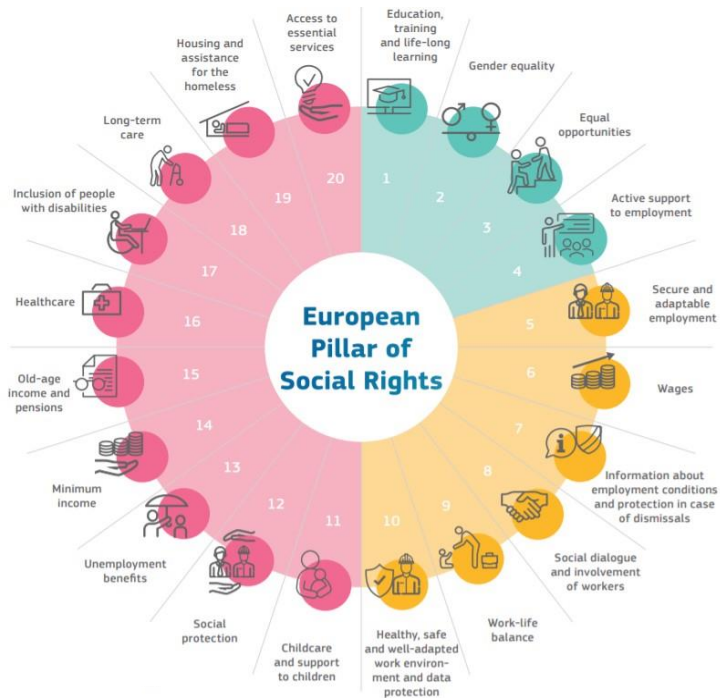
IDENTIFICATION AND VERIFICATION

ERRORS AND FRAUDS

INEFFICIENT AND COSTLY PROCESSES

European Pillar of Social Rights Action Plan

Pillar 12: Social Protection



“ Social protection across national borders is a pre-condition of a well-functioning internal market. Existing and new forms of labour mobility facilitated by **digitalisation**, from generalised teleworking across borders to **digital nomads working remotely across the EU**, require seamless interactions between mobile workers and administrations, while reducing the risk of errors and fraud. Innovative solutions, notably digital ones, can facilitate the physical and virtual mobility of citizens, support the portability of social security rights and the cross-border verification of social security coverage by administrations, and address challenges in the identification of people for social security coordination purposes.

In the context of the European Pillar of Social Rights Action Plan, the Commission will:

Start a **pilot in 2021 to explore a digital solution** to facilitate the interaction between mobile citizens and national authorities and improve the portability of social security rights across borders (**European Social Security Pass**).



Posted Worker's To-Be Journeys

Georgios is an employee of a construction company in Greece. His company is sending him to a site in Belgium for a duration of 1 year.

LIFE EVENT

WORKING ABROAD

MEMBER STATES
IN THIS SCENARIO

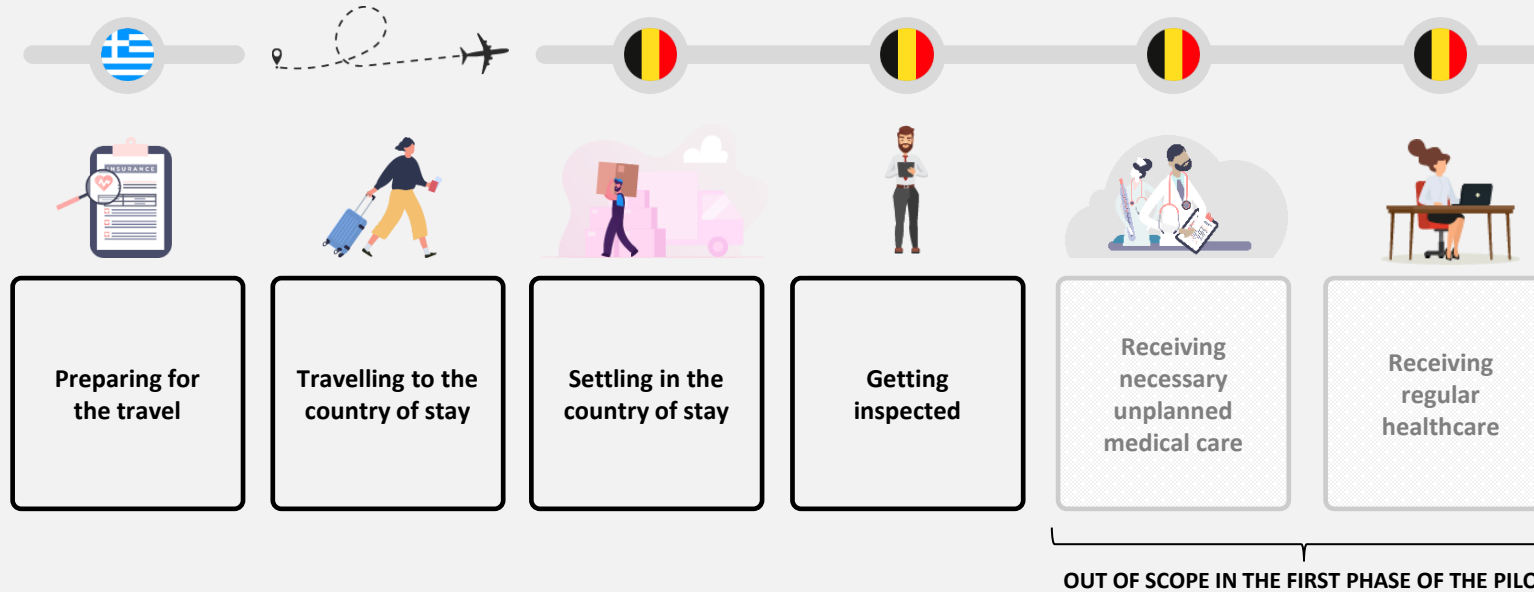


BELGIUM



GREECE

USER EXPERIENCES

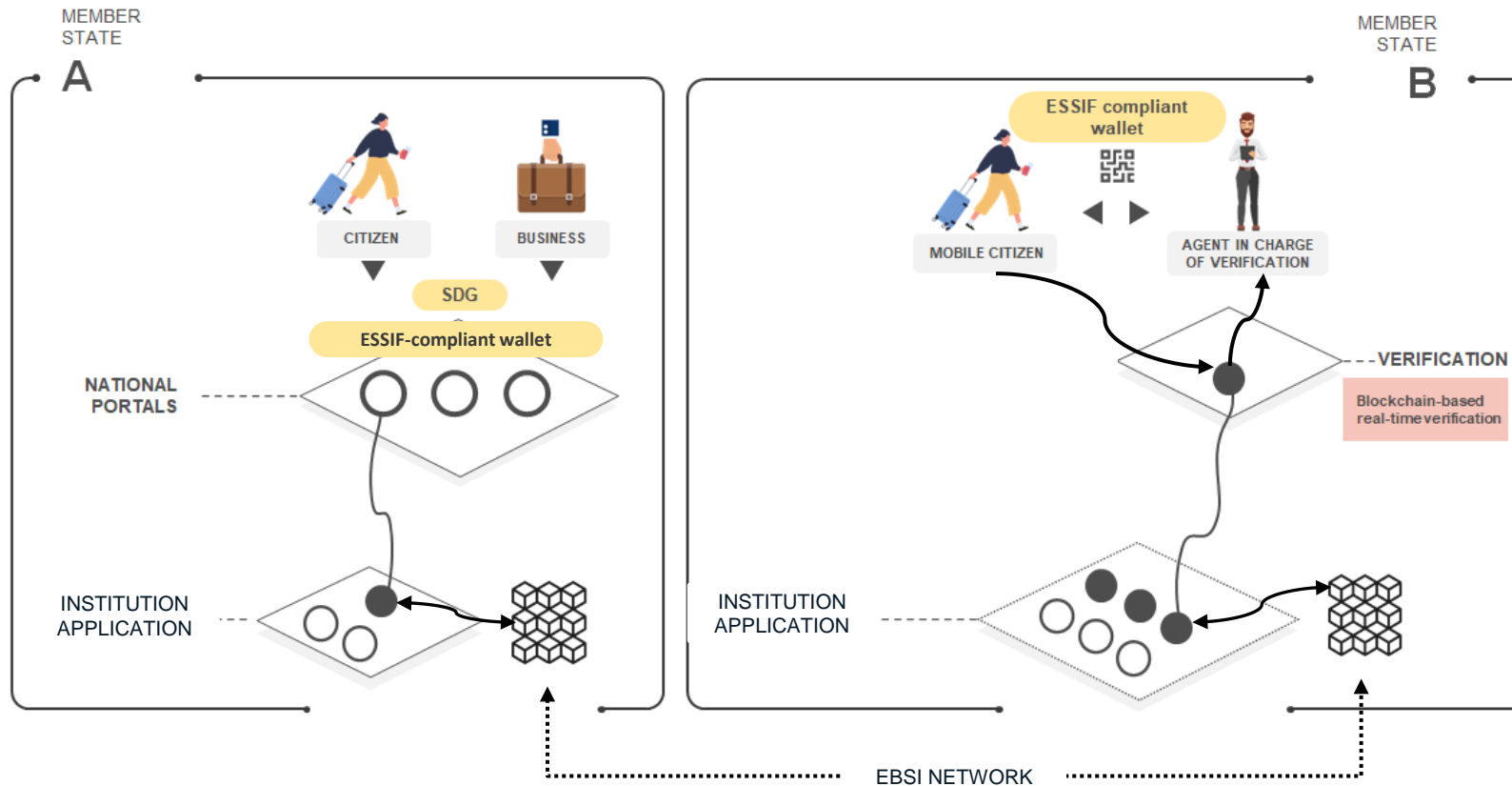


Focus on:

1. Issuance of PDA1
2. Verification of PDA1

Solution blueprint

DIGITALISATION PRINCIPLES AND BLUEPRINT



KEY PRINCIPLES

- **Identification** fully relying on ESSIF compliant wallet
- No need to introduce a unique (pseudo) number
- **Verification** fully leveraging verifiable credentials and verifiable attestations
- No need to identify the person based on the minimum dataset. The verifiable attestation will be shared upon consent using QR-codes, or equivalent techniques

EBSI : European Blockchain Services Infrastructure
 ESSIF: European Self Sovereign Identity Framework
 SDG: Single Digital Gateway



EMPL-E2-UNIT@ec.europa.eu

Visit us @ <http://ec.europa.eu/social>

Distinctive kinds of old-age pensions and their coordination in Europe

prof. dr. Grega Strban

MoveS seminar: Distributary (pay-as-you go) and capitalisation (funding) elements in the new Greek social security system.

Transportability of benefits throughout Europe, Athens, 25 November 2021 (online)

Introductory thoughts

- Old-age as social and private risk

- Social risk

- Perception when the first social pension insurance was introduced in Germany (1889)
- Today's perception
- Various notions (old-age, seniority and/or retirement pension)
- Still a social risk (of lost or reduced income)

- Private risk

- Covered by private insurances

Introductory thoughts

- Occupational social security?
 - E.g. Directive 86/378/EEC, repealed by Directive 2006/54/EC
 - Somewhere in-between public and private?
 - Or merely publicly promoted (and regulated) private insurance?

Distinctive kinds of old-age pensions

- **Combination of public and private elements**

- So called three pillars of providing old-age pension

- Like ancient Greek orders of architecture: Doric, Ionic and Corinthian pillars?

- Or more dynamic?

- ... and supported by general old categorical social assistance



Distinctive kinds of old-age pensions

- First pillar is a public one
 - Social pension insurance, based on pay-as-you-go (repartition) financing
 - National pension scheme
 - Defined benefit (DB) scheme
 - Criticism
 - not adjusted to non-standard forms of employment and self-employment

Distinctive kinds of old-age pensions

- Second pillar
 - Voluntary (if mandatory for certain occupations, it might fall under first pillar) or mandatory in some MS
 - Could be administered by specific pension funds or under specific rules
 - Financed by insurance premiums (whereby pension insurance contributions might be lowered) and possibly subsidised by State budget
 - Fully-funded (capitalised, personal pension accounts)
 - Defined contribution (DC) scheme, could also be DB scheme or capital reserves
 - Preferential tax treatment (tax benefits)
 - Criticism
 - Multiplier of occupational success
 - Reverse solidarity?
 - Casino social security?

Distinctive kinds of old-age pensions

- Third pillar
 - Fully private
 - Voluntary
 - DC scheme
 - Offered and administered by private insurance companies
 - No State subsidies

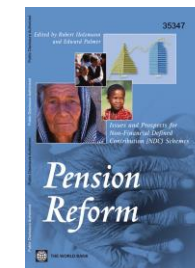
Distinctive kinds of old-age pensions

- Situation in Europe

- Still predominance of public pension schemes
- Combination with other two pillars
- MPISoc pension maps project [\(click\)](#)

- Two waves caused by the World Bank

- 1994 „Averting the old-age crisis“
- 2006 „Pension Reform : Issues and Prospects for Non-Financial Defined Contribution Schemes“ (NDC or fictitious pension accounts)



Coordination of old-age pensions

- **Within EU**

- Regulation (EC) 883/2004 on coordination of social security schemes
 - Purpose
 - Challenges
- Directive 98/49/EEC on safeguarding supplementary pension rights
- Directive 2014/50/EU on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights
 - Purpose
 - Challenges

Coordination of old-age pensions

- Within Europe, but outside of EU - **Council of Europe**
 - European Social Charter (initial and revised)
 - European Committee of Social Rights (criticism for no all-encompassing coordination mechanism, bilateral and multilateral agreements do not cover all Member States)
 - European Convention on Human Rights
 - European Court of Human rights construed its Protocol (1P1) also in the field of pensions
 - Important also for export of pensions (e.g. *Pichkur v. Ukraine*, No. 10441/06, 7. 11. 2013)

Coordination of old-age pensions

- With countries **outside of Europe**
 - Bilateral social security agreements
 - Multilateral social security agreements
 - Unilateral measures based on national (constitutional) law

Concluding remarks

- Landscape of old-age pensions and their coordination is diverse
- Important distinctions as to the legal nature of pensions
 - influenced by cultural and structural elements and policy preferences in each MS
 - reflected in their coordination
- Public schemes (adjusted to contemporary challenges) have proven to be the most resilient to various societal disruptions and might also provide the best protection for moving persons
 - Private pensions may supplement (not replace) public schemes...

“The development of auxiliary insurance in Greece-Features”

Epameinondas Atsaves, Deputy
Governor of e-National Social Security
Fund (e-EFKA)

Supplementary Insurance in Greece (1)

- Is public, mandatory and covers the risks of old age, disability and death
- Is granted in addition to main pension
- Belongs to the first pillar of insurance and is mainly provided by Legal Entities under Public Law and less by Legal Entities under Private Law

Supplementary Insurance in Greece (2)

- Is mandatory for salaried employees covered with main insurance and for self-employed individuals that already have been pertained to the Supplementary Insurance
- Is legally protected: Art. 22 par. 5 of Constitution, Hellenic Council of State, Council Directive 98/49/EC of June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community

Background

- Supplementary Insurance was established during 19th century (1861 – Army Share Fund) and kept blooming until 1970s
- No general rules applied. Different syndicates led to different schemes of supplementary insurance. However the main insurance was common
- First attempt of unification took place in 1979 (law 997/1979) for salaried employees mainly due to excessive administrative costs
- Further attempts of unification: law 2084/1992, law 2676/1999, law 4052/2012, law 4387/2016

Operating Rules and Regulations of Supplementary Insurance

- Financial and accounting autonomy
- Until 2012: Pay-as-you-go Pension System (PAYG)
- Today: Notionally Defined Contributions system – NDC
- Law 4826/2021: Hellenic Auxiliary Pensions Defined Contributions Fund



The reform of the auxiliary insurance in Greece - The new Pension Fund T.E.K.A



The Need



The Greek Public Pension System

Main Pension

Universal population coverage

- National pension: State Budget
- Contributory pension: Contributions.
+ *Deficits are covered by state budget*

Auxiliary Pension

Salaried workers + certain self-employed groups (lawyers + engineers)

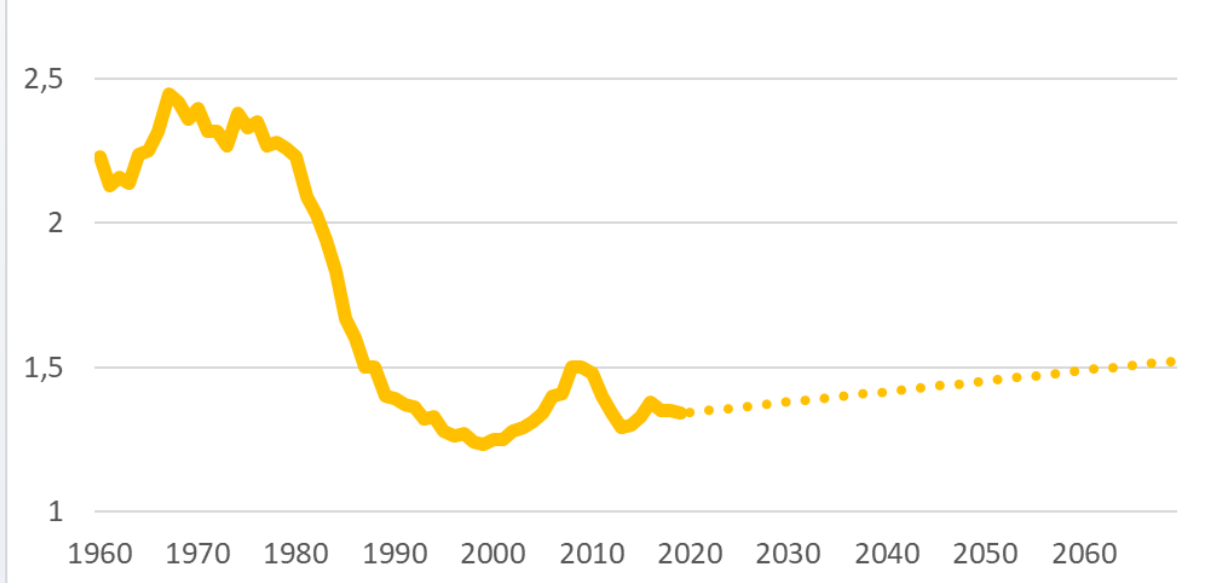
- Contributions
Mixed DB + NDC system
No state budget financing. Zero deficit clause

- Completely PAYGO system
- Vulnerable to demographic shocks
- Heavily dependent upon state budget: Vulnerable to fiscal shocks.
- There is no risk – diversification
- No economic growth effects.



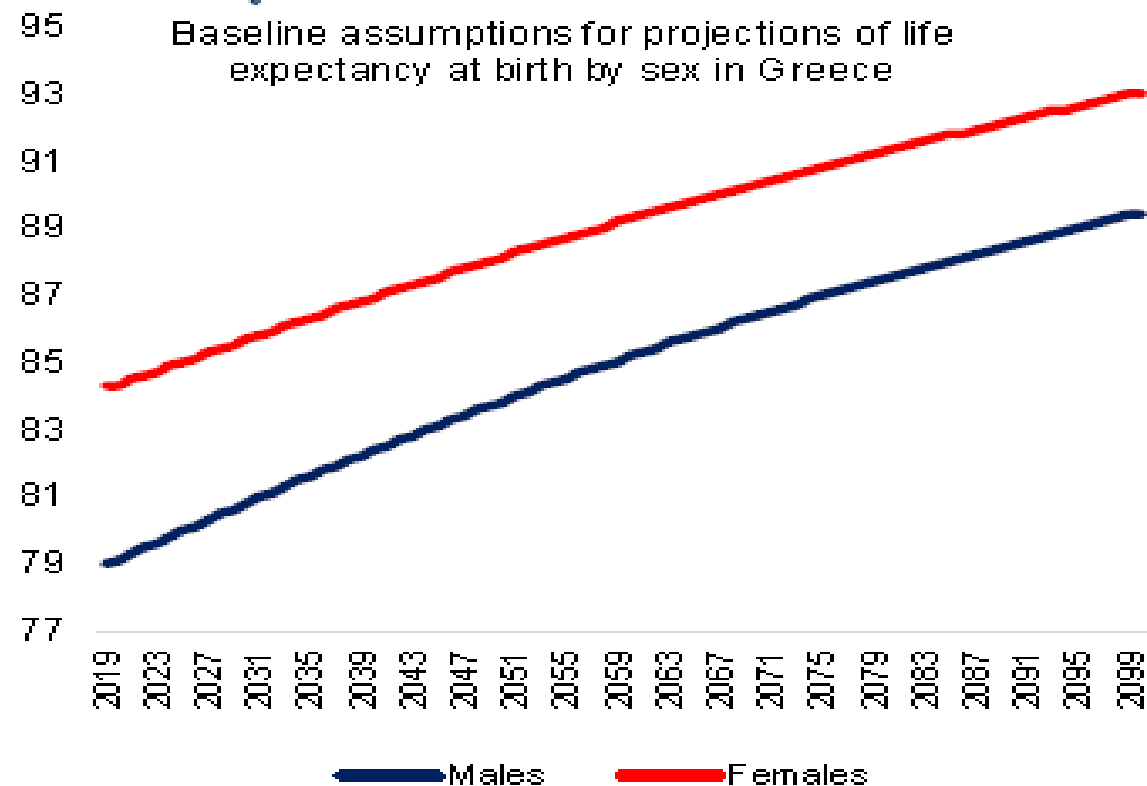
Low fertility rates and longevity A demographic “bomb”

Total Fertility Rate
live births per woman



Πηγή: Eurostat

Baseline assumptions for projections of life expectancy at birth by sex in Greece

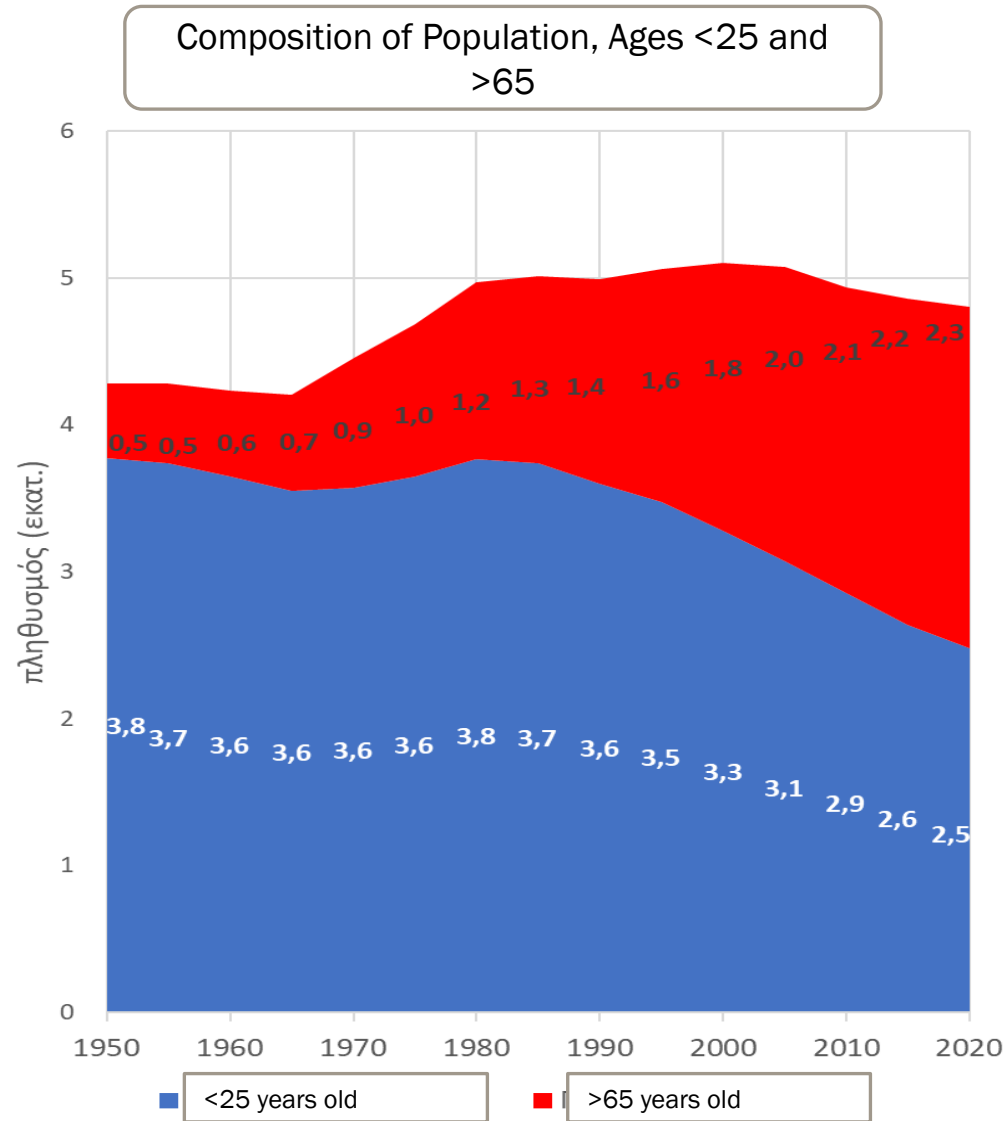


Source: Eurostat

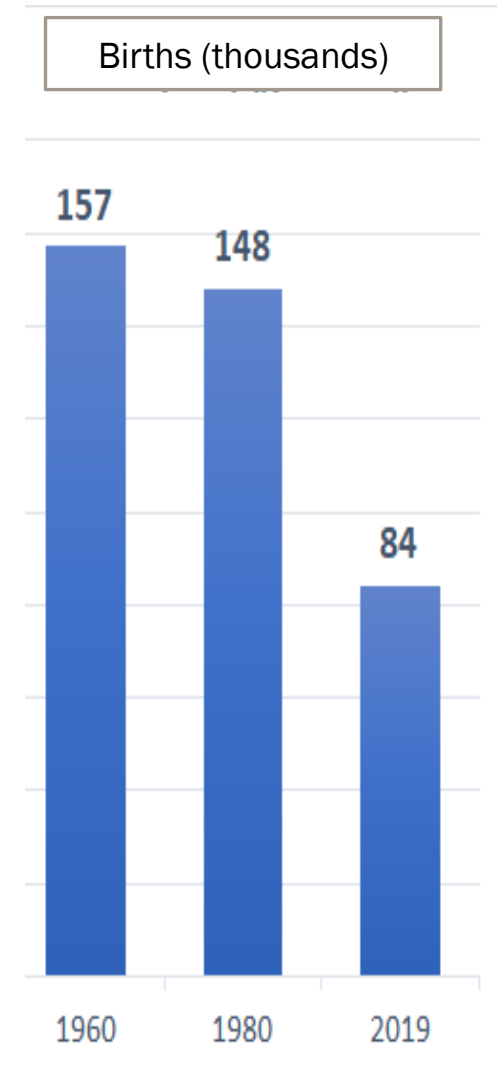
Greek demographic trends

During the last 4 decades (1980-2020):

- Drop by 35% (1/3) in population <25 years old
- Population over 65 doubled (+93%)
- Birth rate dropped by 44%

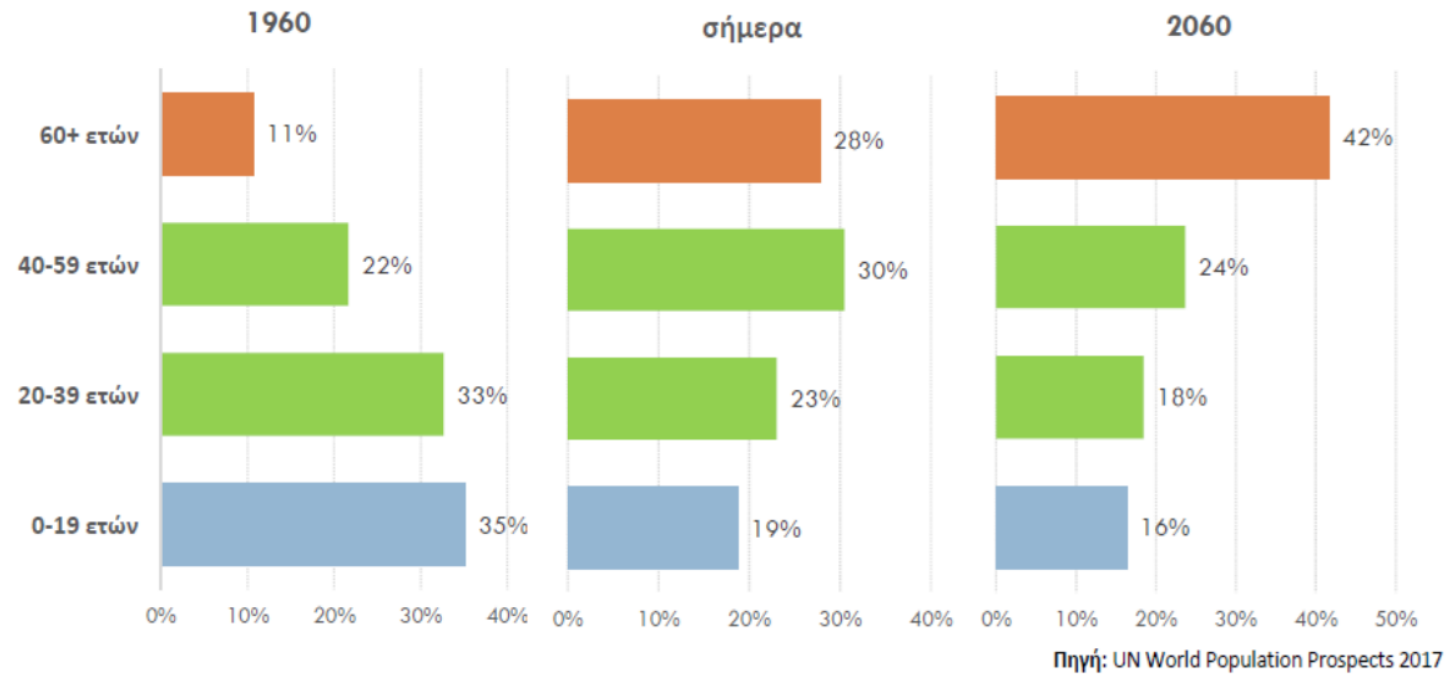


source: UN & ELSTAT

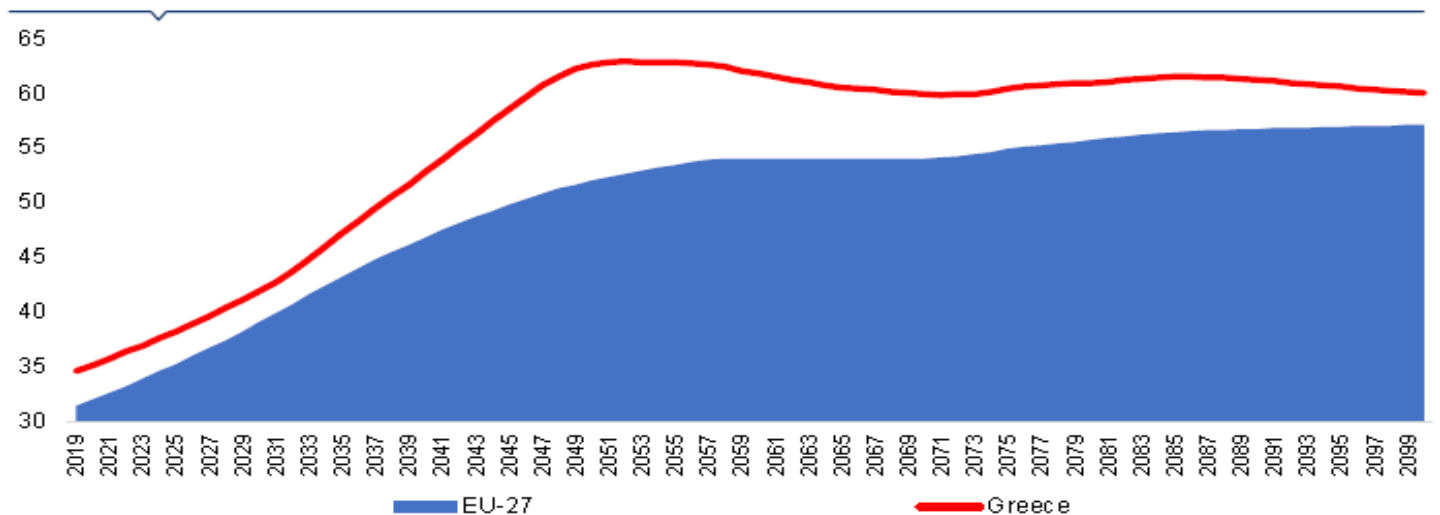


Demographic issues will worsen in the future

- Every generation is “smaller” than the previous one
- Age pyramid has reversed
- Dependency rate has dramatically risen
- Less and less working population will have to support retired persons



Graph 5. Projections of the old dependency ratio (population 65 and over to population 15 to 64 years) in Greece and the EU-27

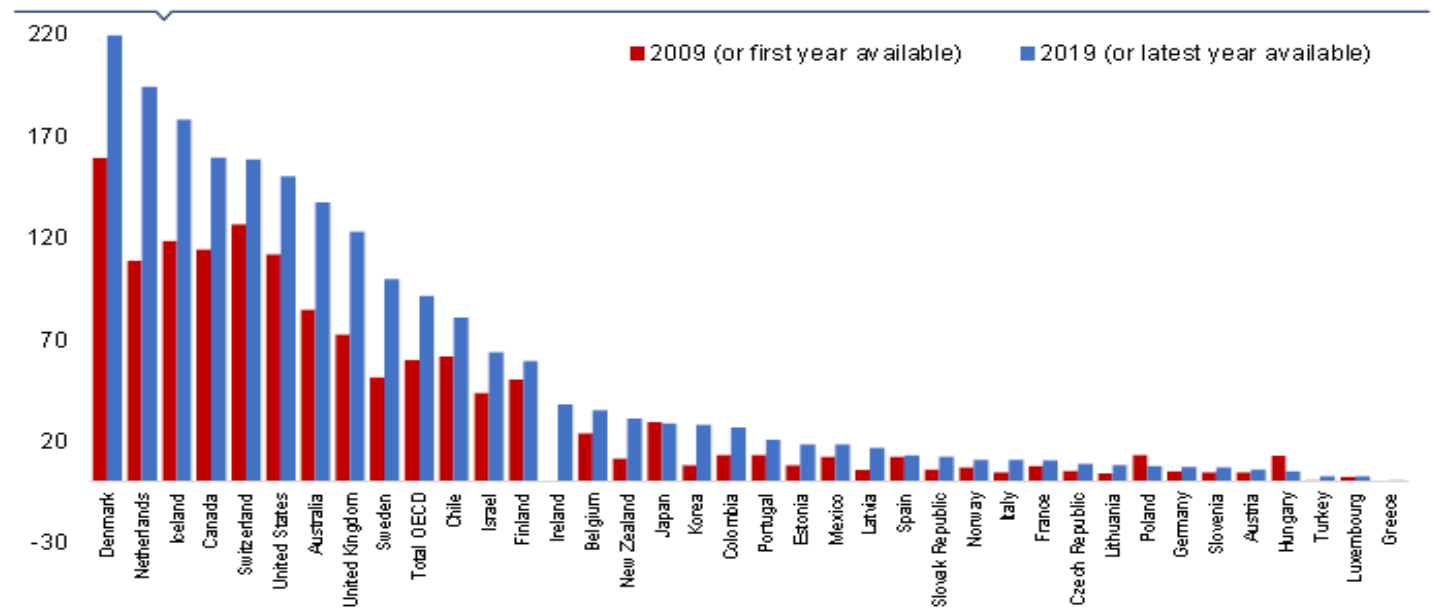


Source: Eurostat

How did other countries respond to demographic crisis?

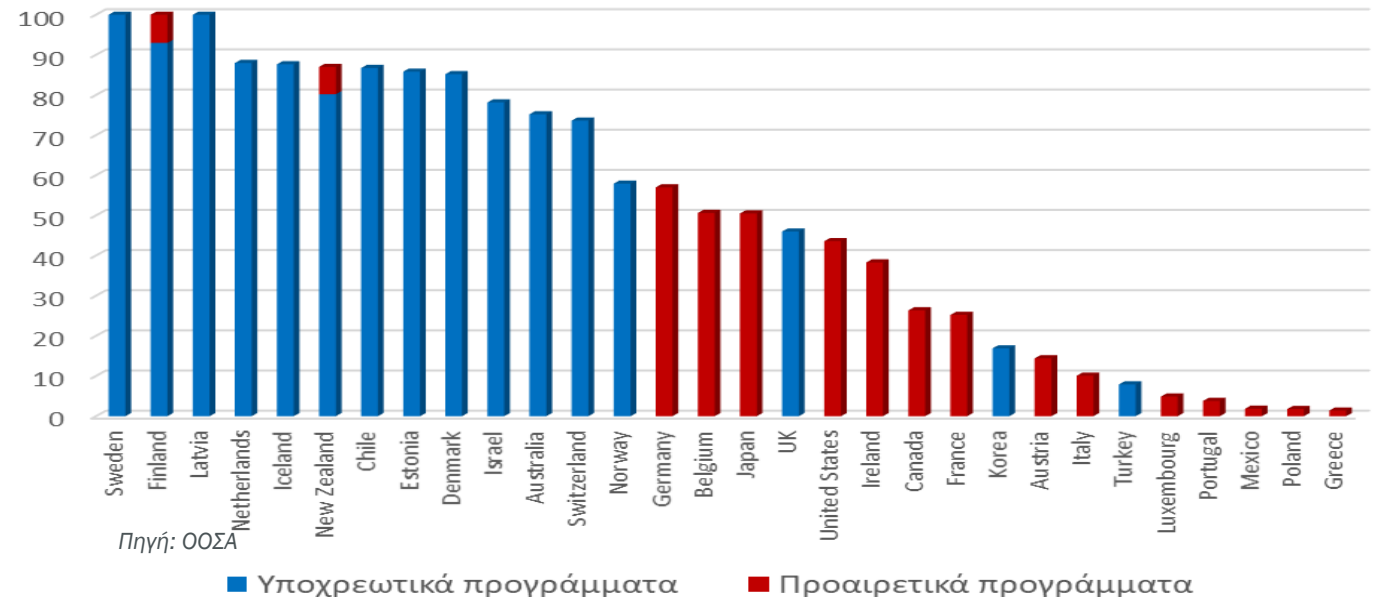
- Population ageing is common to EU and OECD countries.
- OECD (mainly EU): Included DC elements in pension schemes.
- In most OECD countries, over 50% of the population is covered by some sort of supplementary DC pension scheme.
- Greece up to now has fallen behind in this trend.

Graph 2. Assets in private retirement savings plans in EU countries in 2009 and 2019 as a % of GDP



Source: OECD

% εργαζομένων που καλύπτονται από κεφαλαιοποιητικά συνταξιοδοτικά προγράμματα



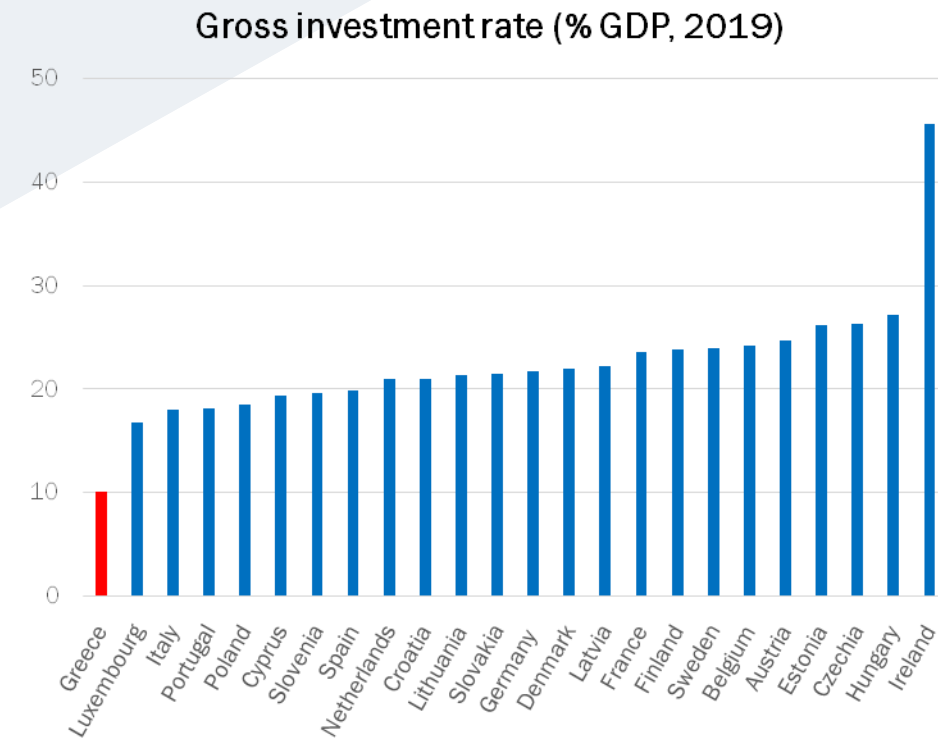
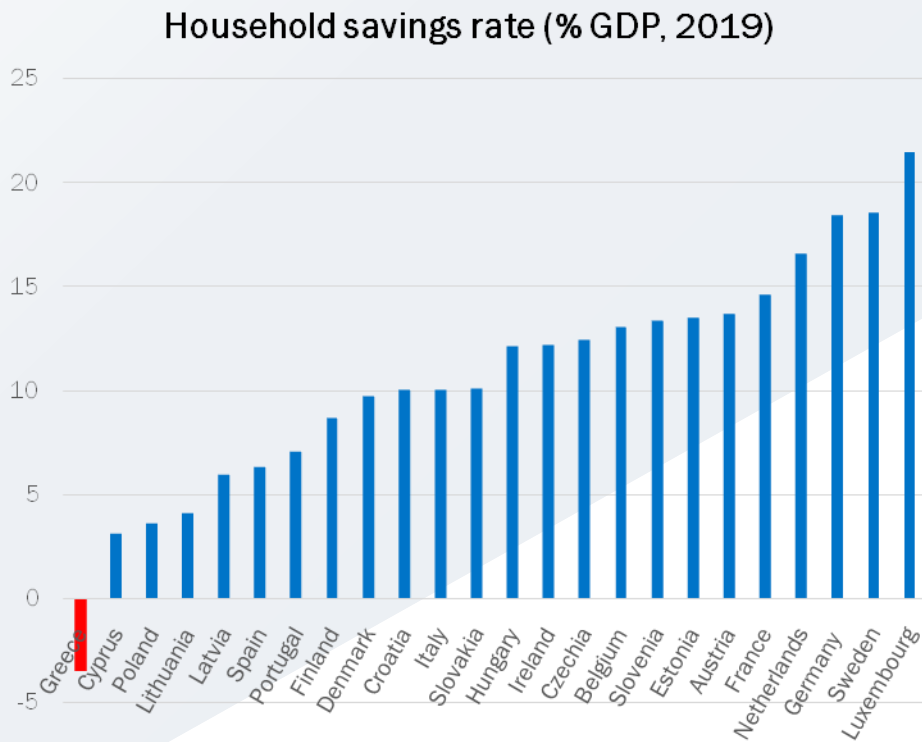
Πηγή: ΟΟΣΑ

■ Υποχρεωτικά προγράμματα

■ Προαιρετικά προγράμματα



Greece: Low household savings rate and investment rate



Πηγή: Eurostat



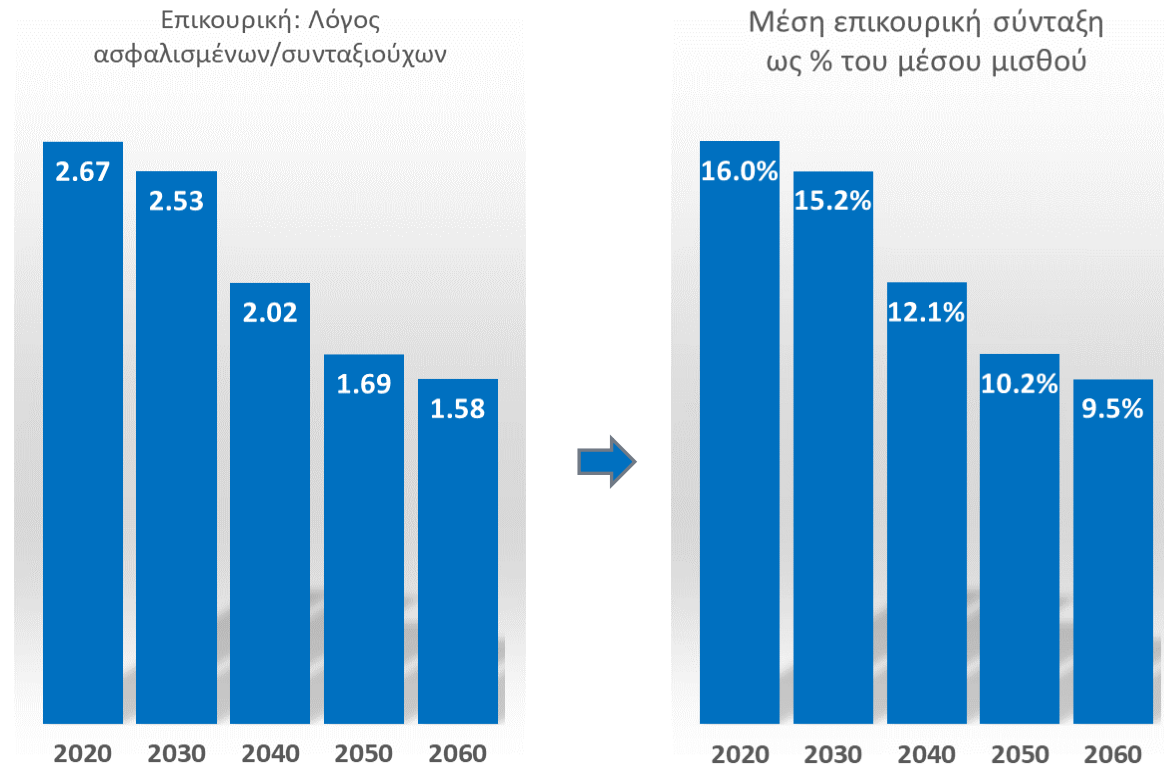
The auxiliary pension before the reform

No difference compared to main pension

With 0 deficit clause and demographic pressure, its role would continuously diminish

By reforming it, the auxiliary pension has a new role

- ✓ new options to the insured
- ✓ introduces differentiation
- ✓ its viability is safeguarded





The design



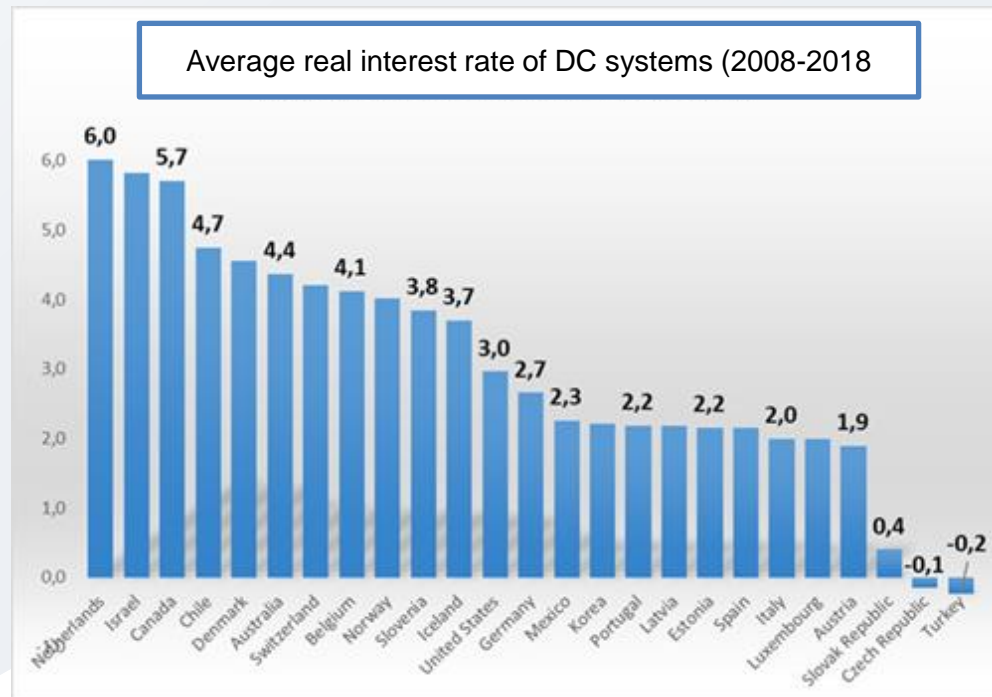
Strategic goals

1. To mitigate the demographic pressure in the pension system
 - ✓ Strengthening the viability of the pension system overall
 - ✓ Introducing risk dispersion/ differentiation:
 - ✓ National pension: Fiscal risk
 - ✓ Contributory pension: Demographic risk
 - ✓ Auxiliary pension: Market risk
 - ✓ The overall risk of the system drops. Not «all eggs in one basket»
2. Accelerating economic growth
 - ✓ The new fund will invest in local economy (following relevant EU rules).
 - ✓ Higher growth - higher productivity
 - ✓ Higher wages leading to increased tax revenues and social security contributions
3. Building loyalty and confidence to the pension system for future generations
 - ✓ Creating incentives for entering the formal labour market.
 - ✓ Fighting distortions in labour and product markets
 - ✓ Strengthening savings culture and interest for future pensions

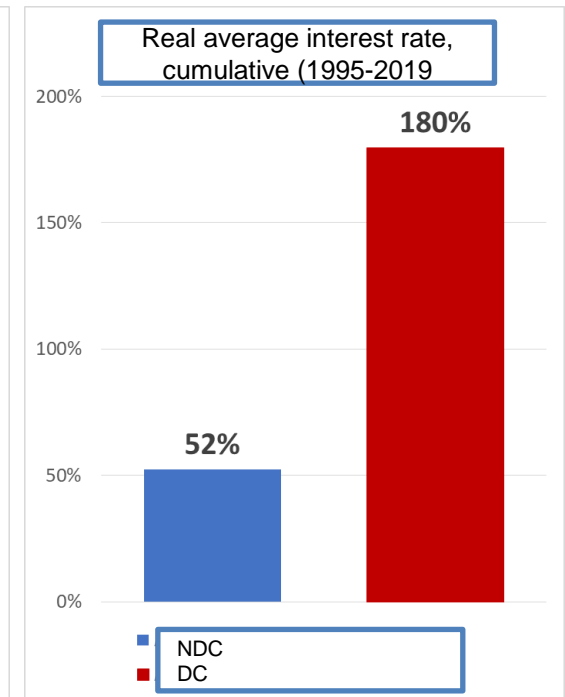
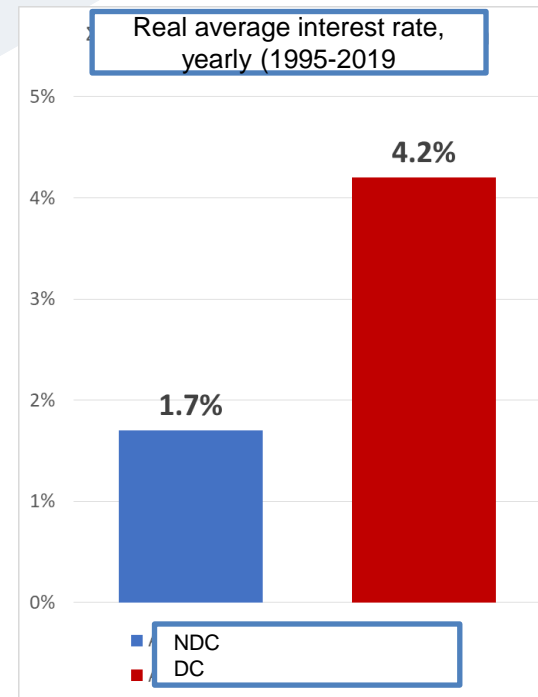
Strategic goals

4. Ensuring higher pensions for future retirees, through higher interest rates
Διαχρονικές αποδόσεις:

1. OECD countries

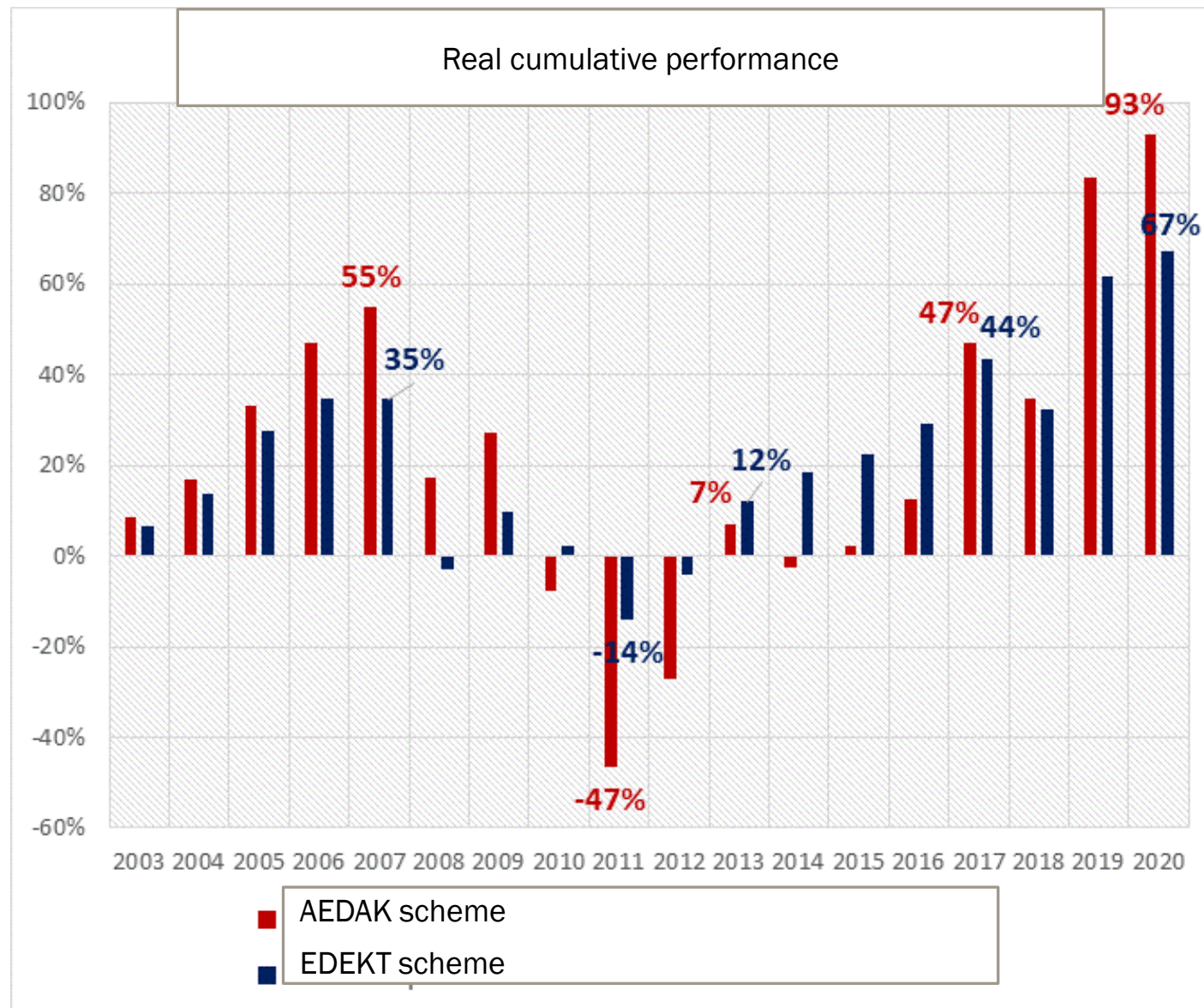


2. Sweden



Greece

- There exist 2 companies, owned by the State that invest State Pension funds reserves (AEDAK, 2002 and EDEKT, 2011).
- Despite exposure in Greek bonds and extreme volatility of the Greek financial markets, their performance has been extremely good during 2003-2020.
- All these, despite GGBs' "haircut", the banks' bailout schemes and the extremely bad performance of the Greek stock market, during 2008-2020
- Real cumulative performance: 93% for AEDAK and 67% for EDEKT



Source: Hellenic Fund and Asset Management Association & EDEKT



Main characteristics

- Gradual transition from a NDC to a DC auxiliary pension/ The new auxiliary pension remains a 1st pillar scheme.
- Target group:
 - New labour market entrants as of 1/1/2022 (salaried and certain self employed) – mandatory
 - Workers less than 35 years old (already in the labour market or not in mandatory auxiliary pension schemes) – optional
- Establishment of a new Pension Fund: T.E.K.A.
- Personal accounts / Investing SSC Δημιουργία ατομικών λογαριασμών («κουμπαράδων») / Επένδυση εισφορών
- Investment options: Conservative, Balanced/ Default, Higher Risk



Main Characteristics

- Investment management and decisions are the sole responsibility of T.E.K.A.
- SSC: 6% for salaried workers or based on classes for self-employed.
- Provisions: old-age, invalidity and survivors' pensions
 - ✓ Pension is awarded together with main pension
 - ✓ There is no option for lump-sum or early withdrawal
 - ✓ Most rules are identical to existing scheme, however insured persons have property rights on their accumulated contributions after retirement (not before).
- Pensions are actuarially neutral, based on accumulated capital plus interest.
 - ✓ Non-negative performance guarantee



T.E.K.A

- The new Fund is organized in line with similar funds (AP7 – Sweden, ATP – Denmark).
- Strong selection rules for BoD and CEO – Open call, Independent Selection Committee, Parliamentary hearing
- Strong governance rules
- Professional investment management
- Transparency and accountability rules

- Next steps: Building a strong supervision authority

- Transition period
 - ✓ Pensions in the “old” system will continue as today (as if the reform has not taken place)
 - ✓ Transition cost: Gross vs Net



Anticipated costs and benefits from the reform (2020-2070)

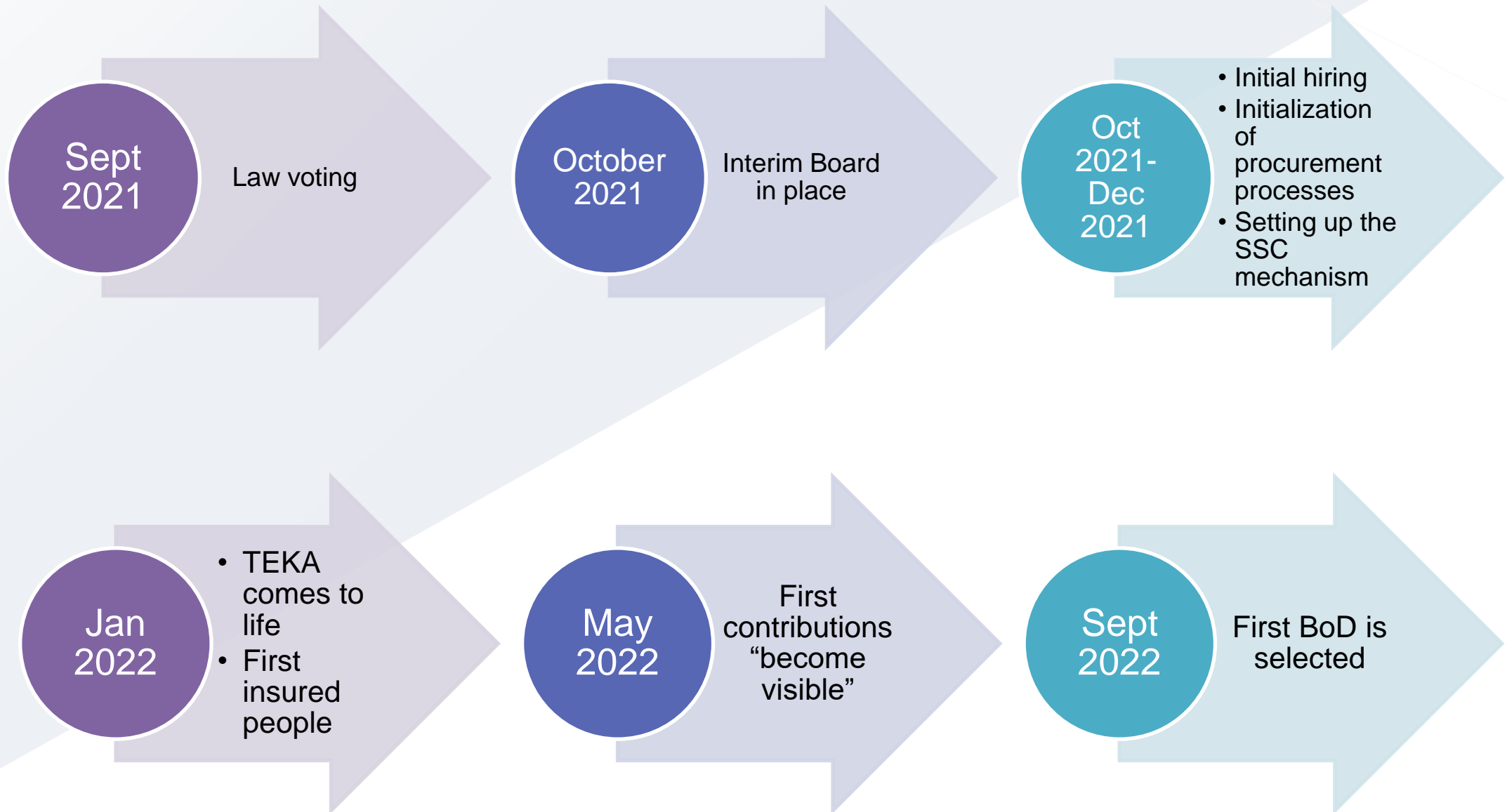
- ✓ The reform reaches full maturity in 2065 (population coverage will be at 50% in 2045 and 90% in 2065)
- ✓ TEKA reserves will reach 31% of GDP in 2070
- ✓ Increase of investments: 0,6% of GDP on average during period 2022-2070
- ✓ Increase of employment: 0,4% in 2070
- ✓ GDP growth: 6-7% by 2070

- ✓ **Gross Gain: bn 50 €** (increase in SSC and taxes)
- ✓ **Gross Cost: bn 56 €** (cumulative transition cost)
- ✓ **Net cost (present value): bn 6 €**

- ✓ Gross transition cost (for the first decade): bn 3 €
- ✓ Anticipated increase in auxiliary pensions: 11-13%



The implementation



MoveS
e-seminar
Greece
25.11.2021

Recent case-law stemming from the Court of Justice of the European Union concerning the application of Regulation (EC) 883/2004 to seafarers (Case C-631/17)

By Dr. Iliana Christodoulou-Varotsi

MoveS Visiting Expert

Flag State vs Residence State?

Το ζήτημα της υπαγωγής των ναυτικών στο σύστημα κοινωνικής ασφάλισης του κράτους της σημαίας εκκινεί από το διεθνές δίκαιο, εδραιώνεται στο εθνικό δίκαιο και δέχεται την επίδραση του κοινοτικού δικαίου με έμμεσο τρόπο, μέσω του συντονισμού (κράτος κατοικίας)

Νομική βάση και πλαίσιο

- Άρθρο 11: Γενικοί κανόνες
- Άρθρο 12: Ειδικοί κανόνες (απόσπαση)
- Άρθρο 13: Άσκηση δραστηριότητας σε δύο ή περισσότερα κράτη μέλη
- Άρθρο 14: Προαιρετική υπαγωγή ή συνέχιση της ασφάλισης
- Άρθρο 15: Συμβασιούχος υπάλληλος των ΕΚ
- Άρθρο 16: Εξαίρεσεις από τα άρθρα 11 έως 15

Τίτλος II Κανονισμού (ΕΚ) 883/2004, όπως τροποποιήθηκε

Κανόνες για τον καθορισμό της εφαρμοστέας νομοθεσίας στον τομέα της κοινωνικής ασφάλισης

- Άρθρα 11 έως 16

Οι αρχές

Αρχή της ίσης μεταχείρισης (άρθρα 4-5
Κανονισμού 883/2004)

Υπαγωγή στη νομοθεσία ενός και μόνο
κράτους μέλους (άρθρο 10 και 11(1))

Συνυπολογισμός των περιόδων ασφάλισης
(άρθρο 6)

Εξαγωγιμότητα των παροχών σε χρήμα
(άρθρο 7)

Άρθρο 11(3)

Με την επιφύλαξη των άρθρων 12 έως 16:

- α) το πρόσωπο που ασκεί μισθωτή ή μη μισθωτή δραστηριότητα σε κράτος μέλος, υπάγεται στη νομοθεσία του εν λόγω κράτους μέλους·
- β) ο δημόσιος υπάλληλος υπάγεται στη νομοθεσία του κράτους μέλους στο οποίο ανήκει η υπηρεσία που τον απασχολεί·
- γ) το πρόσωπο το οποίο λαμβάνει παροχές ανεργίας σύμφωνα με το άρθρο 65, δυνάμει της νομοθεσίας του κράτους μέλους κατοικίας, υπάγεται στη νομοθεσία του εν λόγω κράτους μέλους·
- δ) το πρόσωπο που καλείται ή καλείται εκ νέου να εκτελέσει στρατιωτική θητεία ή πολιτική υπηρεσία σε κράτος μέλος, υπάγεται στη νομοθεσία του εν λόγω κράτους μέλους·
- ε) οποιοδήποτε άλλο πρόσωπο, στο οποίο δεν εφαρμόζονται οι διατάξεις των στοιχείων α) έως δ),

υπάγεται στη νομοθεσία του κράτους μέλους κατοικίας,

με την επιφύλαξη άλλων διατάξεων του παρόντος κανονισμού που του εξασφαλίζουν παροχές δυνάμει της νομοθεσίας ενός ή περισσότερων άλλων κρατών μελών.

Άρθρο 11(4)



Υπόθεση C-
631/17
SF κατά
Inspecteur van
de
Belastingdienst

- Δικαστήριο της Ευρωπαϊκής Ένωσης
- Υπόθεση C-631/17, 8 Μαΐου 2019
- SF κατά Inspecteur van de Belastingdienst
- Αίτηση προδικαστικής απόφασης που αφορά στην ερμηνεία του Κανονισμού (ΕΚ) 883/2004, όπως τροποποιήθηκε
- Ένδικη διαφορά μεταξύ του ναυτικού (θαλαμηπόλος/steward) SF και της φορολογικής αρχής των Κάτω Χωρών σχετικά με την υπαγωγή του SF στο Ολλανδικό σύστημα κοινωνικής ασφάλισης για συγκεκριμένη χρονική περίοδο

SF: Υπήκοος και
κάτοικος Λεττονίας

Απασχολήθηκε ως
ναυτικός σε
επιχείρηση με έδρα
στην Ολλανδία

Άσκηση
δραστηριότητας σε
πλοίο υπό σημαίας
Μπαχαμών

Πλοίο έπλεε στη
Βόρεια Θάλασσα
εκτός της
επικράτειας της ΕΕ

Ολλανδικές φορολογικές αρχές εξέδωσαν πράξη προσδιορισμού φόρου

Σύμφωνα με αυτές ο SF όφειλε εισφορές κοινωνικής ασφάλισης στο σύστημα της Ολλανδίας για συγκεκριμένη περίοδο (13 Αυγούστου έως τις 31 Δεκεμβρίου 2013)

Ο SF αμφισβητεί την υπαγωγή και προσφεύγει ενώπιον των ολλανδικών δικαστηρίων

Λόγω αμφιβολιών για την ερμηνεία του Κανονισμού 883/2004, υποβάλλεται προδικαστικό ερώτημα σχετικά με την εφαρμοστέα νομοθεσία υπό τις περιστάσεις αυτές

ΔΕΚ

Διαπιστώνει ότι ο SF δεν εμπίπτει στους ειδικούς κανόνες των άρθρων 12 έως 16 του Κανονισμού

Ούτε στις περιπτώσεις του άρθρου 11 ή στον ειδικό κανόνα για τους ναυτικούς του άρθρου 11(4)

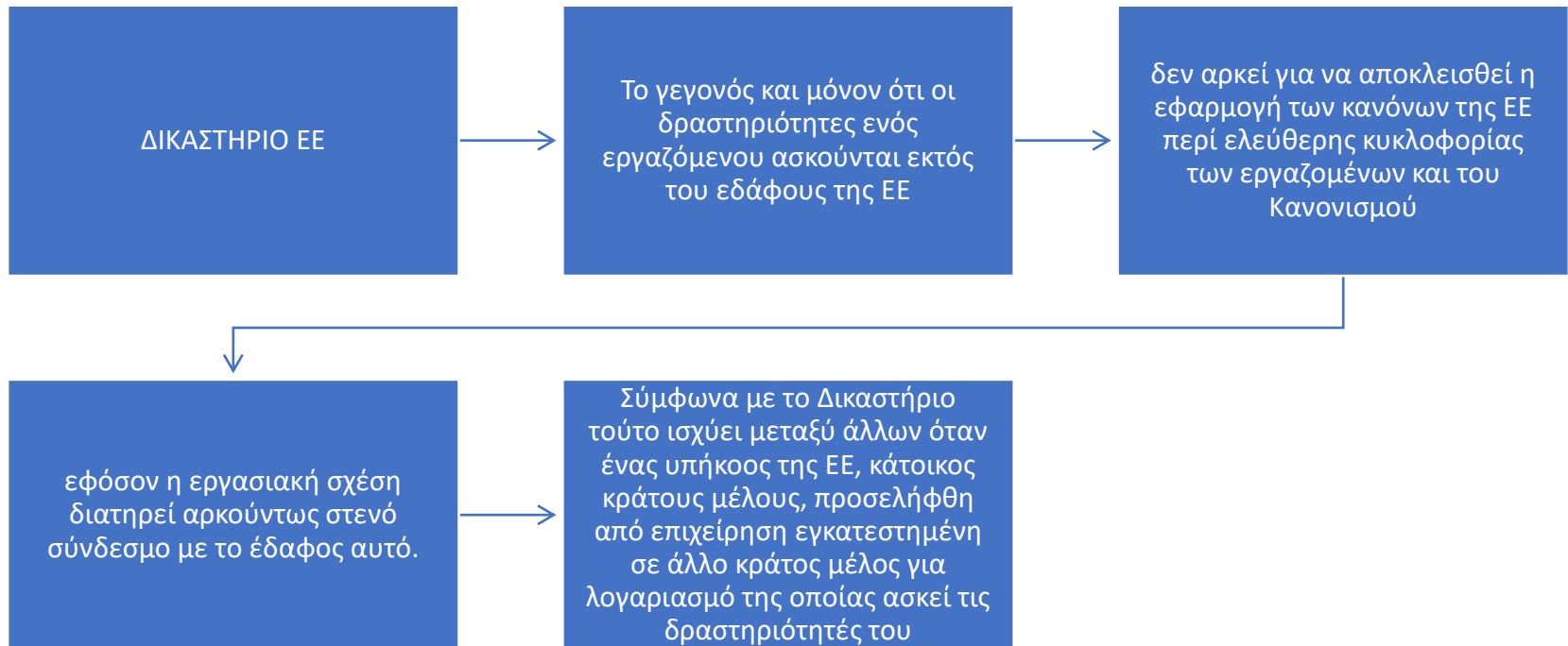
Στη συνέχεια το ΔΕΚ εξετάζει εάν ο SF εμπίπτει στο άρθρο 11(3)(ε)

(... οποιοδήποτε άλλο πρόσωπο, στο οποίο δεν εφαρμόζονται οι διατάξεις των στοιχείων α) έως δ),

υπάγεται στη νομοθεσία του κράτους μέλους κατοικίας...)

ΔΕΚ

- Μέσω τεχνικής ερμηνείας του άρθρου 11(3)(ε) καταλήγει ότι αυτό εφαρμόζεται σε όλα τα πρόσωπα που δεν αναφέρονται στα στοιχεία α' έως δ' του άρθρου 11 και όχι μόνο σε εκείνα που δεν ασκούν οικονομική δραστηριότητα (θέση της Ολλανδικής Κυβέρνησης και της Επιτροπής)



Το Δικαστήριο εκτιμά ότι η επίμαχη σχέση εργασίας διατηρεί **αρκούντως στενό σύνδεσμο με το έδαφος της ΕΕ.**

Ο SF κατοικούσε στη Λεττονία

Ο τόπος εγκατάστασης του εργοδότη του βρισκόταν στην Ολλανδία

Συνεπώς το Δικαστήριο θεωρεί ότι η κατάσταση αυτή εμπίπτει στο πεδίο εφαρμογής του Κανονισμού συντονισμού και ειδικότερα στο άρθρο 11(3)(ε).

Εφαρμοστέα νομοθεσία είναι εκείνη του κράτους μέλους κατοικίας του SF

Άρθρο 11(3)(ε): διάταξη catch-all που θα εφαρμόζεται σε περιπτώσεις για σκοπούς υπαγωγής τους στον Κανονισμό συντονισμού εφόσον οι υπόλοιποι κανόνες σύγκρουσης δεν βρίσκουν εφαρμογή;

ΑΞΙΟΛΟΓΗΣΗ ΤΗΣ ΑΠΟΦΑΣΗΣ

Μεταβολή από το κράτος της σημαίας στο κράτος κατοικίας για πρακτικούς λόγους;

- Σύμβαση για το Δίκαιο της Θάλασσας 1982 (άρθρο 94)

Κάθε κράτος ασκεί αποτελεσματικά τη δικαιοδοσία και τον έλεγχο του σε διοικητικά, τεχνικά και κοινωνικά θέματα πάνω στα πλοία που φέρουν τη σημαία του.

- Σύμβαση ΔΟΕ Maritime Labour Convention 2006

Πρότυπο A4.5 παρα. 4

[...] τα Μέλη μπορούν να καθορίσουν με διμερείς ή πολυμερείς συμφωνίες και με διατάξεις που υιοθετούνται στο πλαίσιο των περιφερειακών οργανισμών οικονομικής ενοποίησης, άλλους κανόνες σχετικά με τη νομοθεσία περί κοινωνικής ασφάλειας στην οποία υπόκεινται οι ναυτικοί.

Νομολογία ΔΕΕ

- C 465/14, 27 Οκτωβρίου 2016

Raad van bestuur van der Sociale
verzekeringsbank V. F. Wieland and H.
Rothwangl

- C 106/11, 7 Ιουνίου 2012

M.J. Bakker v. Minister van Financien

- C 347/10, 17 Ιανουαρίου 2012

A. Salemink v. Raad van bestuur van het
Uitvoeringsinstituut [...]

Συνοπτική βιβλιογραφία

- Δικαστήριο της ΕΕ, Ανακοινωθέν τύπου αρ. 58/19 για την απόφαση στην Υπόθεση C-631/17 SF κατά Inspecteur van de Belastingdienst
- Νομολογία Δικαστηρίου της ΕΕ
- Carballo L. (World Maritime University), Implementation Challenges for Seafarers' Social Security Protection: the Case of the European Union, International Social Security Review, Vol. 73, 4/2020
- Le Cleiss, République Française, Affaire C-631/17, Affaire C-631/17 : SF contre Inspecteur van de Belastingdienst (cleiss.fr)

*Σας ευχαριστώ για την
προσοχή σας!*

Pension tracking services in 4 European countries

From the Actuarial Association of Europe (AAE)
Social Security Sub-Committee,

Task Force on pension tracking services Members:

Jeroen van den Bosch (chairman, the Netherlands)

Lars Billberg (Sweden), Martin te Beek (the Netherlands),

Chresten Dengsøe (Denmark), Christina Lindell (Finland),

Arne Paulsson (Sweden), Michael Rasch (Denmark)

Samuel Rinnetmäki (Finland)

About the AAE

The AAE (Actuarial Association of Europe, until 31 December 2013 known as the Groupe Consultatif Actuariel Européen) was established in 1978 to represent actuarial associations in Europe. Its purpose is to provide advice and opinions to the various organizations of the EU on actuarial issues in European legislation and other market developments. The AAE currently has 37 member associations in 35 European countries, representing about 20,000 actuaries. Advice and comments provided by the AAE on behalf of the European actuarial profession are totally independent of industry interests.

About the Social Security Sub-Committee, TF on pension tracking services

- The Social Security Sub-committee of the Pensions Committee of the AAE was established in July 2012 with the aim of making a significant actuarial contribution in the public interest in the areas of demography, ageing, social security and social protection policy in the European Union. Its current chairperson is Maria Economou from Greece
- Currently disclosure to individuals is high on the agenda of DG Employment and Consumer Protection and, although an actuary is not typically a specialist on communication and information distribution, the actuary is well educated to have an opinion about what information is relevant for different stakeholders and how the information is calculated.
- Establishing pension tracking services and providing information towards consumers (transparency) is one way to increase consumer protection. Apart from this pension tracking services can enable consumers to take responsibility for their own financial future.

National Tracking Service definition:

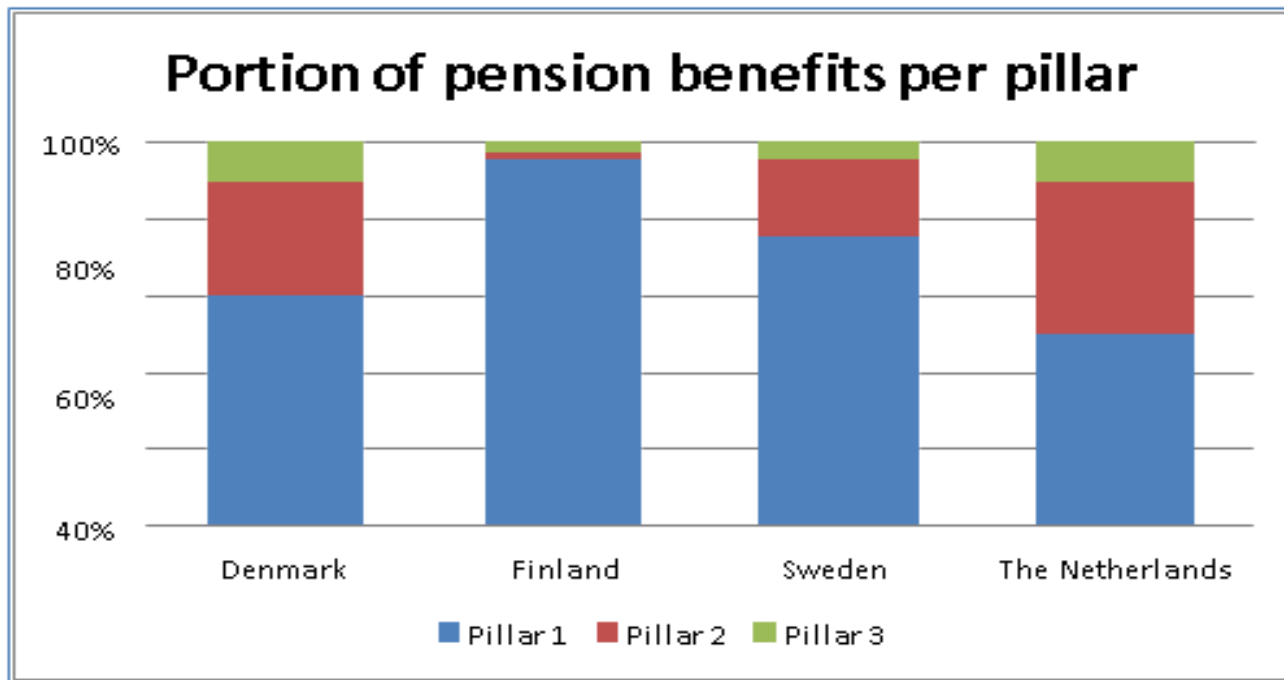
A national tracking service is defined as a system where a consumer can login via the internet and is able to view his or her pension data. These data can be the source data (such as insured periods, career periods, etc.) upon which the pension benefit will be based, or the pension (accrued) benefit itself.

Good practices in four countries of the EU that have already implemented national Tracking Services Denmark, Finland, Sweden and The Netherlands. This was the first report describing them in 2013 and set the basis for developments in other EU countries, Belgium, Germany, France, Hungary, Ireland and the UK in 2015.

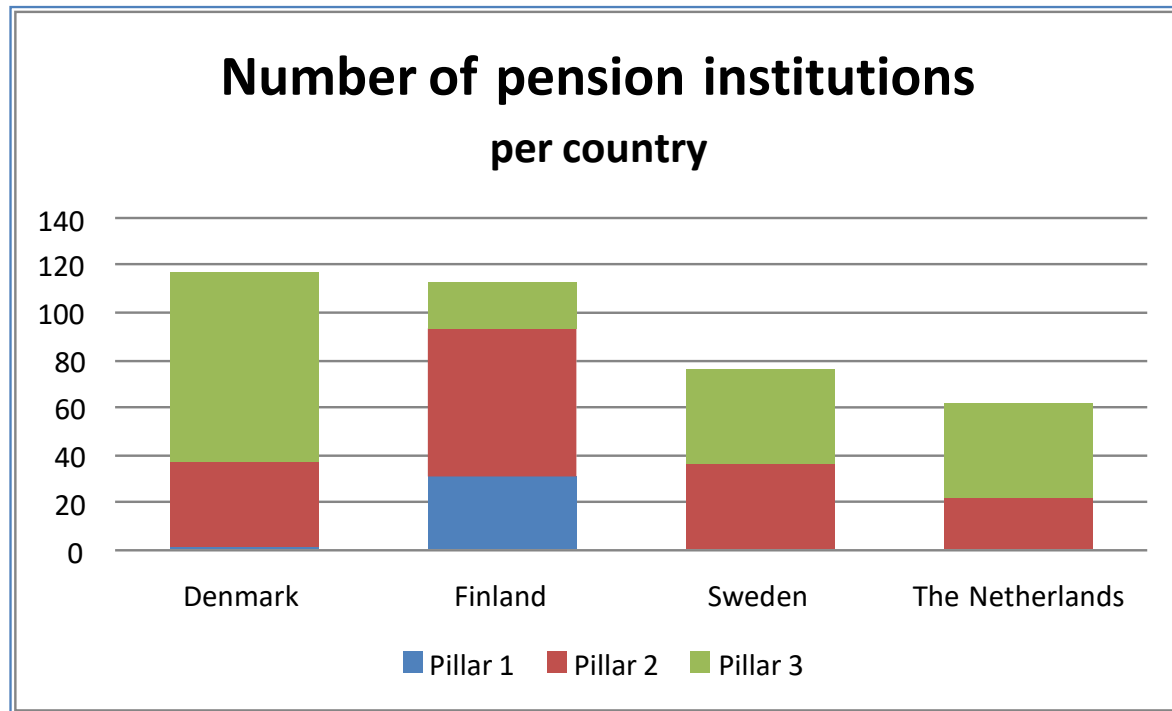
Tooling definition:

Tooling are the possibilities of using the data provided in different scenarios. This could mean that the user of the tool can choose to look at different scenarios. An example of this would be postponement of the retirement age and being able to see the financial consequences of this choice.

Pension Systems, Overview



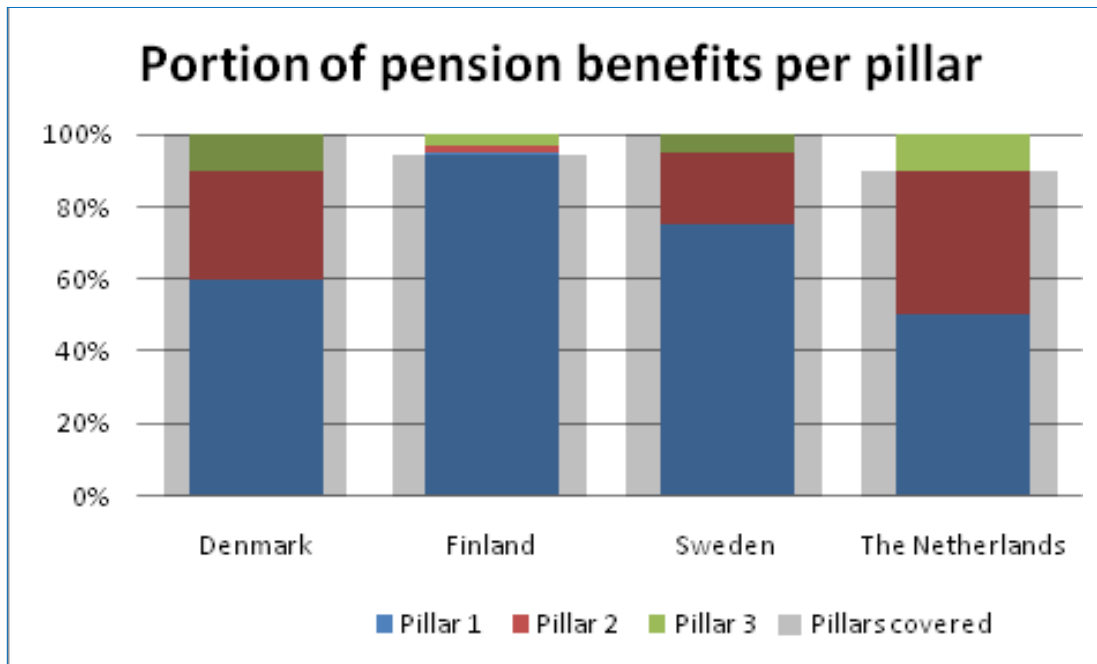
Pension Institutions, Overview



Tracking Services in the 4 countries

Country	Name	Webpage
Denmark	Pensionsinfo	www.pensionsinfo.dk
Finland	Työeläke.fi	www.tyoelake.fi
Sweden	Minpension	www.minpension.se
The Netherlands	Pensioenregister	www.mijnpensioenoverzicht.nl

Benefits and Information provided



Pension benefits per pillar and pillars covered in the national tracking service

Data

To give a full picture of one's pension benefits it is important to have all three pension pillars involved in a national tracking service. In Denmark and Sweden this has been accomplished and in these two countries the last remaining pension providers are connecting to the tracking service in 2013.

In the Netherlands 3rd pillar pensions are currently not covered by the tracking service. In Finland a discussion has started whether 2nd and 3rd pillar pensions should be included in the tracking service.

Tooling

- Currently actuarial techniques are only being used in the conversion of pension capital into annuities at retirement age. When introducing tooling into the national tracking services actuarial techniques will be needed, for example, to calculate early or post retirement benefits. These techniques will be needed to be able to compare and add retirement benefits together.
- As mentioned earlier, information about the risks in pensions is becoming more and more important. In Sweden and the Netherlands the provision of risk information for participants is under discussion. This will be an important supplement to the current national tracking services.
- In the Finnish and Swedish tracking services tooling is available for consumers. In Denmark Pensionsinfo only provides the data but there is little tooling. Third parties like some pension providers provide tooling to calculate different scenarios. The consumer is able to send his or her data to these tools. In the Netherlands no tooling for consumers is currently available. A discussion about tooling within or outside Mijnpensioenoverzicht.nl is currently taking place as part of a renewal of the pension information guidelines in the Pensions Act.

Other information

For the defined benefit (DB) arrangements very little information is provided about the risks and purchasing power of benefits.

For defined contribution (DC) arrangements (especially in Denmark and Sweden) real returns are used to calculate projected benefits. By using real returns purchasing power is taken into account implicitly. In the Netherlands a discussion is currently taking place about providing information on purchasing power for participants.

Although currently none of the tracking services provided information about risks, more and more attention is being given towards tooling about this subject.

Costs

Country	Financers	Initial setup costs	Annual costs
Denmark	PensionsInfo is a private organization and all the pension providers contribute to the financing of the site. The costs are allocated based on the number of times they have delivered data to PensionsInfo. The maximum cost for a pension provider is 15% of the total cost. The state doesn't pay any of the annual cost. There is no minimum cost.	€ 3.5 million	€ 1.5 million
Finland	The costs are covered by pension providers. When a person views his/ her pension record, his/her own pension provider is charged for the transaction.	> € 1 million	€ 0.5 – 0.8 million
Sweden	Pension Agency (50%), Pension providers (50%)	€ 1.1 million	€ 3.0 million
The Netherlands	Pension providers in 2 nd pillar. The SVB (pension provider for the 1st pillar) maintains the Dutch tracking service	€ 10 million	€ 2.3 million

The set up of an EU tracking service

An EU tracking service could be set up in different ways.

The most efficient way to deal with EU tracking services is to use the existing knowledge of the national tracking services. The EU tracking service can then be seen as a portal that offers the facility of combining the knowledge from different countries.

It seems reasonable that this portal should start with the utility to trace whether there are pension benefits for the consumer in the national tracking services connected to the portal. The portal would guide users to get more information from national services.

An EU tracking service should start with a "coalition of the willing". If only a few countries were to participate at the start, that would make the setup a lot easier and probably less costly, as lessons could be learnt from the pilot countries before implementation in other countries.

Actuarial contribution needed

Through this report on tracking services the actuarial profession wants to emphasize the importance of communication regarding pensions and finance. As experts in the field of pensions and pension calculations the actuarial profession should fulfill its role by pointing out technical issues surrounding pensions and pension communication and providing possible solutions.

Currently actuarial techniques are only being used in the conversion of pension capital into annuities at retirement age. When introducing tooling into the national tracking services actuarial techniques will be needed, for example, to calculate early or post retirement benefits. These techniques will be needed to be able to compare and add retirement benefits together.

References - Further reading

https://www.actuary.eu/documents/AAE_Tracking_Services_Feb2015.pdf

<https://docplayer.net/10003298-Report-on-key-issues-from-the-review-of-national-tracking-services.html>



Report on key issues from the review of national tracking services

October 2013
Task Force on Tracking Services
Social Security Sub-committee
Groupe Consultatif Actuariel Européen