Activities and supervision of institutions for occupational retirement provision (IORPs). Recast

2014/0091(COD) - 24/11/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 512 to 70, with 40 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement provision (recast).

Parliament's position, adopted at first reading following the ordinary legislative procedure, amended the Commission proposal as follows:

Subject matter and scope: IORPs play an important role in the long-term financing of the Union's economy and in the provision of secure retirement benefits. They are a **vital part of the Union economy**, holding assets worth EUR 2.5 trillion on behalf of around 75 million members and beneficiaries.

In the internal market, institutions for occupational retirement provision (IORPs) should have the **possibility to operate in other Member States while ensuring a high level of protection and security for members and beneficiaries** of occupational pension schemes.

This Directive is aimed at **minimum harmonisation** and therefore should not preclude Member States from maintaining or introducing further provisions in order to protect members and beneficiaries of occupational pension schemes, provided that such provisions are consistent with Member States' obligations under Union law. This Directive does not concern issues of national social, labour, tax or contract law, or the adequacy of pension provision in Member States.

Registration or authorisation: Member States shall, in respect of every IORP, the main administration of which is located in their territories, **ensure that the IORP is registered in a national register, or authorised**, by the competent authority. The location of the main administration refers to the place where the main strategic decisions of an IORP are made.

Member States may provide that **additional benefits** such as the option of longevity and disability cover, provision for surviving dependants and a guarantee of repayment of contributions are offered to members with the agreement of the employers and the employees or their respective representatives.

Transfers of pension schemes:

- in the case of a transfer of part of a pension scheme, **the viability of both the transferred part and the remaining part of the pension scheme should be ensured** and the rights of all members and beneficiaries should be adequately protected after the transfer, by requiring both the transferring and the receiving IORPs to have **sufficient and appropriate assets** to cover the technical provisions for the transferred part and the remaining part of the scheme;
- the transfer and its conditions should be subject to **prior approval** by a majority of the members and a majority of the beneficiaries concerned or where applicable, by a majority of their representatives, such as the trustees of a trust-based scheme;
- the transfer of all or a part of a pension scheme's liabilities, technical provisions, and other obligations and rights, as well as corresponding assets or cash equivalent thereof, between transferring and receiving IORPs shall be subject to **authorisation by the competent authority of**

the home Member State of the receiving IORP after obtaining the prior consent of the competent authority of the home Member State of the transferring IORP;

- the transfer of all or a part of a pension scheme's liabilities, technical provisions, and other obligations and rights, as well as corresponding assets or cash equivalent thereof, between transferring and receiving IORPs shall be subject to authorisation by the competent authority of the home Member State of the receiving IORP after obtaining the prior consent of the competent authority of the home Member State of the transferring IORP;
- in the event of a whole or partial cross-border transfer of a pension scheme, where there is a disagreement between the competent authorities concerned, it should be possible for the **European Insurance and Occupational Pensions Authority** (EIOPA) to carry out mediation.

Governance systems:

- the system of governance shall include consideration of **environmental, social and governance factors** related to investment assets in investment decisions, and shall be subject to regular internal review. Member States shall ensure that IORPs establish and apply **written policies** in relation to risk management, internal audit and, where relevant, actuarial and outsourced activities;
- persons who effectively run an IORP should collectively be **fit and proper** and persons who carry out key functions (the actuarial or internal audits, etc) should have **adequate knowledge and experience** and, where applicable, adequate professional qualifications.

Remuneration policy: Member States shall require IORPs to establish and apply a **sound remuneration policy** for all those persons who effectively run the IORP, carry out key functions and other categories of staff whose professional activities have a material impact on the risk profile of the IORP in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities.

The remuneration policy shall comply with the following principles:

- be in line with the long-term interests of members and beneficiaries of pension schemes operated by the IORP;
- be consistent with sound and effective risk management and shall not encourage risk-taking which is inconsistent with the risk profiles;
- it shall include measures aimed at avoiding conflicts of interest.

Outsourcing: IORPs should be allowed to entrust any activity, including key functions, in whole or in part, to service providers operating on their behalf. IORPs should remain fully responsible for discharging all of their obligations under this Directive when they outsource key functions or any other activities. IORPs should enter into a written agreement with the service provider when outsourcing any activity.

Information on the pension scheme: Member States shall, in respect of every IORP registered or authorised in their territories, ensure that members and beneficiaries are sufficiently informed about the respective pension scheme operated by the IORP, in particular concerning:

- information on the **investment profile**;
- the nature of **financial risks** borne by the members and beneficiaries;
- the conditions regarding full or partial **guarantees** under the pension scheme;
- the mechanisms **protecting accrued entitlements** or the benefit reduction mechanisms;
- where members bear **investment risk** or can take investment decisions, information on the past performance of investments related to the pension scheme for a minimum of five years;
- the **options** available to members and beneficiaries in receiving their retirement benefits;
- further information about the arrangements relating to such a transfer.

Where prospective members **do not have a choice** and are automatically enrolled in a pension scheme, the IORP should provide them with the key relevant information about their membership promptly after enrolment.

Pension Benefit Statement: the Pension Benefit Statement should be clear and comprehensive and should contain relevant and appropriate information to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility.

The Statement should provide information on **pension benefit projections** based on the retirement age. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the pension scheme.

Prudential supervision: Member States shall ensure that their competent authorities may impose **administrative sanctions and other measures** applicable to all infringements of the national provisions implementing this Directive, and shall take all measures necessary to ensure that they are implemented. Administrative sanctions and other measures are effective, proportionate and dissuasive.