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# Parting words...

Upon leaving the EFRP on 24 October 2001 I certainly had mixed feelings. Sadness because I had to leave a cherished position. Not because of its glamour or power but because of its challenge. Satisfaction because looking back I could see how the EFRP had become a serious player and partner for all parties dealing with EU policy areas relevant for pension funds.

To bring the pension fund industry into the reality of the single market may seem to have become an eternal challenge. Over the years I have witnessed a natural dynamic gradually increase focus on one strategic objective of our federation : the European passport predicated on liberalisation of investment practices across the EU. This objective is now crystal clear but the route remains tortuous.

The European scene is a complex and multi-level game - chess appears child's play compared to the intricacies of EU decision-making. Therefore, I would like to remind our Member Associations that Europe begins at home : Europe's changes and decisions primarily take place in their own capitals. Brussels is the process that puts it all together.

The Brussels office has gained such a crucial role in EFRP action that Members now wonder how EFRP had done without it for so many years. The ever-increasing number of issues the EU now deals with and that are relevant for pension funds challenges our Federation's resources. Our Members rightly expect from us high-quality information and analysis delivered to them on a timely basis.

I have been fortunate to work with a strongly committed team that wants to accomplish this task.

The EFRP's 20th anniversary on 22 October 2001 was a moving event since all but one of the seven former EFRP Chairmen travelled to Brussels to celebrate. All who have stood at the helm of the EFRP should feel they have navigated unexplored waters on a pioneering voyage - one which might have seemed modest at the outset but which has grown steadily in daring and scope over the years. They are all part of a great project even if it is not yet accomplished.

Finally, I would like to express my thanks to all those with whom I had the opportunity to work. Each of them helped me both to bear more easily my responsibilities as well as to carry out my duties as Chairman.

Kees VAN REES, Outgoing EFRP Chairman (1997-2001)

# Important steps towards a single market for pension funds

At the beginning of 2001, the EFRP agenda for the year looked to be well-filled, if not overloaded.

The long-awaited draft pension funds directive was most welcome. Yet proponents of occupational pension funds understood that maintaining the thrust of the Commission proposal throughout the legislative process would be something of a Herculean task. It proved to be no less.

The European Parliament and the Economic and Social Committee managed to read the directive before the summer break. At that point, the EFRP could look back with some satisfaction on its hard work countering, commenting upon and urging many of the more than 200 EP proposals for amendment for inclusion in the KARAS report. The result was a clear message to enshrine the "prudent person principle" whilst requiring a phasing out of quantitative rules and a strengthening of home state control for prudential supervision of pension funds.

Despite persistent efforts by Commissioner BOLKESTEIN urging Council to action, it could not proceed at the pace the Swedish Presidency had hoped for. The Belgian Presidency was disappointingly slow. Fortunately, the energetic Spanish team which took over in 2002 seemed to justify new hope that the Directive will be adopted within the timeframe of the Financial Services Action Plan.

A second and potentially even more decisive step towards pan-European pension funds was the publication of the Commission Communication on the elimination of tax obstacles to the cross-border provision of occupational pensions. After a rigorous analysis of basic Community legal provisions, the Commission drew the conclusion that discriminatory tax treatment between domestic and non-domestic pension providers infringes the EC Treaty.

This Communication was particularly gratifying for the EFRP as the Federation's proposal for a pan-European pension fund was not only seriously considered but was also recommended as a possible model for the EU. Unfortunately, the Council failed to adopt this idea leaving the EFRP with the burden of keeping up the political momentum while filling in the technical detail.

On the social policy side, the Commission formally established the Pensions Forum bringing together Member States' representatives, social partners and industry. Here too EFRP expertise and representative voice received acknowledgement and the Federation was the only body to obtain three delegate seats. This involvement provides us with a splendid opportunity to use our members' expertise in helping the Forum play its part in influencing a future pension policy that is devoid of narrow vested interests.

While not neglecting its tremendous responsibilities, the Federation found time in October to celebrate its 20th anniversary in Brussels. On a personal note, this was a somewhat daunting occasion at which to assume the Federation's chairmanship since I was able to see in sharp relief the achievements made by my predecessors over the preceding two decades. Becoming chairman is an honour that I propose to repay to the best of my ability by working with the secretariat, the board, members and supporters to ensure that pensions within Europe are not seen as a problem but as a part of the solution. Dynamic pension systems can help bring about a dynamic European economy.

Alan PICKERING, EFRP Chairman

# 1. Towards an EU-level prudential framework for pension funds

*The EU institutions made mixed progress en route towards a Directive on a prudential framework for pension funds*

*Whereas the first half of the year 2001 proved to be a dramatic sequel to 2000 for the progress of the proposed Directive on the activities of institutions for occupational retirement provision (IORPs), the second half was less dynamic.*

*Once the Commission had launched its proposal in October 2000<sup>1</sup>, the focus moved to the European Parliament (EP) and the Council - the legislative partners in the co-decision procedure.*

*Under the Financial Services Action Plan, the IORP Directive has a deadline set for EU-level adoption by the end of 2002. Then the measure must be implemented at Member State level and the draft Directive envisages a final implementation date of 31 December 2003.*

*The EP took up its task with vigour, completing its first reading of the proposed Directive in July 2001. Progress in Council under the Swedish presidency started well but then the Belgian presidency launched a survey on prudential supervision which virtually stopped the reading through of the articles. By the end of the year Council had got halfway reading through the Commission proposal and still seemed uncertain on very basic issues.*

*The EFRP was particularly active in trying to communicate to EU-level decision-takers the concerns of occupational pensions providers. Several key proposals it put forward for improving the Directive fell on fertile ground.*

## 1.1. European Parliament supportive with a vast majority

The EP is a consensus-building body with a tendency to add a social policy dimension to all market related matters. It was therefore inevitable that a draft Directive that merely bordered onto the issue of pensions as products - despite being clearly designed to address the financial services aspect of pension funds - would come under pressure to include social elements.

EP Rapporteur Othmar KARAS (PPE/DE - A/ÖVP) of the Economics and Monetary Affairs Committee (EMAC)

skillfully steered this important measure through the EP to complete its First Reading. During the first six months of 2001, Mr KARAS presented several drafts of his Report to EMAC, arranged a well-attended public hearing (see box) and managed to establish a consensus amongst a broad range of MEPs so that the First Reading went smoothly.

### EFRP AT THE EUROPEAN PARLIAMENT HEARING

On 6 February 2001, the European Parliament (Economic and Monetary Affairs Committee) organised a hearing on the proposed directive on IORPs. EFRP representatives were invited to give their views as experts:

**Kees VAN REES**, then EFRP Chairman, cautiously welcomed the proposed Directive and fully subscribed to the objectives put forward by the Commission. However, he identified two main flaws:

1. A lack of awareness of the structural differences between traditional Second Pillar pension funds and insurance companies offering individualised life insurance products.
2. Failure to rely 100% on the qualitative investment rules as embodied in the prudent person principle.

The proposed Directive would not promote the development of pension funds since it is highly doubtful whether regulatory burdens will be reduced.

**Joachim SCHWIND**, EFRP Director<sup>2</sup>, emphasised the need for a prudential framework which would give multinationals and their employees the ability to operate cross-border without having to incur additional costs setting up entirely new funds in individual Member States.

Several other speakers, including former EFRP Chairman, **Philip LAMBERT**, Head of Corporate Pensions at Unilever (UK) as well as **Philip DAVIS**, Professor of Economics and Finance at Brunel University (UK), strongly advocated freedom of investment under the prudent person principle as a precondition for effective funding of occupational pensions.

<sup>1</sup> Proposal for a Directive of the European Parliament and of the Council on the activities of institutions for occupational retirement provision\* COM(2000)507 as submitted 13 November 2000, published Official Journal 27 March 2001.

<sup>2</sup> In the EFRP, Joachim SCHWIND represents the Arbeitsgemeinschaft für betriebliche Altersversorgung (aba) and is Chairman of the Pensionskasse for Hoechst-Group employees, Frankfurt.

### *The EMAC debate*

The key political debate took place at Committee level and was completed in June 2001 when EMAC voted.

Just under one third of the 206 amendments tabled were presented by Wilfried KUCKELKORN (PSE - D/SPD) former Rapporteur on the Commission's Green Paper on Supplementary Pensions. These would have given the Directive a radically different nature. For example, only pension schemes covering biometric risk would come under its scope. This would have been the effect of making biometric risk cover an essential defining feature of pension provision covered by the Directive. In addition, the proposed bureaucratic authorization procedure for every institution would have gone beyond the current lightweight procedures envisaged. Furthermore, prudential requirements, such as operating conditions, investment rules and funding rules would all have become more restrictive.

If they had been accepted, they would not only have increased the rights of members and beneficiaries but involved a disproportionate role for the competent authorities. Institutions would be faced with heavy regulatory burdens hence costs and rigidities with no improvements in terms of single market access.

Moreover the Directive would become a product-harmonizing measure restricted to a subclass of occupational pension schemes - not funds - instead of an EU level regulatory framework for institutions for occupational retirement.

### *The final KARAS Report*

The strategy of Wilfried KUCKELKORN encountered difficulties when the majority of PSE members followed Rapporteur Othmar KARAS who had taken on board some social policy elements. The way was open for a consensus decision at the final EP vote in plenary on 4 July 2001<sup>3</sup>.

What emerged at the end of the First Reading in July 2001 was a set of proposals broadly in line with the Rapporteur's thinking and in which the four main elements were:

- inclusion of an express reference to the prudent per-

son rule together with a 5 year time limit by which quantitative investment restrictions had to be phased out

- provisions to anchor the home State supervision principle in the Directive
- the imposition of an obligation on institutions to offer biometric risk coverage to members - an option exercisable collectively
- an amended level playing field proposal to enable insurance companies to manage pension funds without setting up a separate legal entity

Throughout the run-up to the First Reading the EFRP had sought to persuade the Rapporteur and other MEPs of the advantages of the first two elements as well as generally tidy up key wording of the proposed Directive. Although it may have succeeded in helping to dissuade a majority of MEPs from taking on board the proposals on biometric risk as presented by Wilfried KUCKELKORN, the EFRP regrets that MEPs did not adequately address the many technical problems identified by the EFRP associated with the level playing field proposal.

The key EP proposals are as follows:

#### *(a) Explicit reference to the prudent person rule*

The Commission proposal on investment rules simply required that institutions invest funds in "a prudent manner". It also allowed Member States to have "more detailed rules". This was generally understood to mean that Member States could have quantitative investment rules in conjunction with the prudent person rule.

The Rapporteur sought to achieve greater precision by referring explicitly to the prudent person rule and by making clear what this meant in terms of general principle.

*The EFRP considers this to be a major achievement in its campaign to promote the prudent person principle as the EU investment standard.*

#### *(b) Phasing out quantitative investment rules*

Under the Commission Proposal, the investment rules would be primarily qualitative in nature with minimal vestigial quantitative elements such as the 5% limit on invest-

<sup>3</sup> See "European Parliament - Minutes of proceedings - Result of roll-call votes" for 4 July 2001.

ment in sponsors as well as a 'hard core' of minimum rights which must always be respected if more detailed rules are adopted. These include rights to:

- invest up to 70% of assets in shares,
- hold assets in non-matching currencies up to 30% of technical provisions and
- invest in risk capital markets.

Mr KARAS also pushed for a phasing out of the quantitative rules over a ten-year period. Under pressure from more liberally-minded MEPs, in particular Christopher HUHNE (ELDR - LD/UK), this period was reduced. As a result, the EP Proposal, would require any "more detailed" elements to be phased out over a five-year period.

In the view of the EP, qualitative rules alone should suffice to ensure optimal performance. However, taking into account different national experiences a transition period should be used so as to allow competent authorities time to gain experience of the qualitative approach.

The EFRP suspects that the proposal to phase out quantitative rules will become an item of contention between Parliament and Council.

#### *(c) Anchoring the home State supervision principle into the Directive*

The whole point of the Directive is to provide IORPs with a single European license - otherwise no Directive is needed.

This means that if each IORP observes its own home State's rules it should be able to travel unimpeded throughout the EU and it should be answerable only to one supervisory authority, that of its home State. Surprisingly, the Commission proposal for a Directive does not clearly state this principle and the text is open to different interpretations at key points. The text should be cleared of legal loopholes to prevent reluctant Member States from interfering in the activities of IORPs who would otherwise fully comply with their own State's regulatory requirements. The EP's attempts to eliminate a 'back-slider's charter' are most welcome and credit must go to Piia-Noora KAUPPI (PPE/DE - FIN/KOK) for achieving this.

*The EFRP was particularly persistent in drawing MEPs' attention to this lacuna.*

#### *(d) The amended level playing field proposal*

Under the Commission proposal, each Member State would have the option to decide whether or not to allow life insurance companies to come under specific Articles of the Directive. However, this option would be subject to the condition that all the assets and liabilities relating to occupational pension schemes be held and managed by the life insurer in a separate legal entity.

Under the EP proposal

- It would be individual life insurers, not Member States, who would exercise the option.
- The requirement for a separate legal entity would be replaced by an option to choose between creating a separate legal entity and using other forms of 'ring-fencing'.

The EP argued that these amendments would bring about a true "level playing field" between pension funds and those life insurance companies operating in the Second Pillar. It would also prevent distortions due to variation between national legislative options. The argument in favour of the option for allowing life insurers to operate Second Pillar pensions schemes via 'ring-fenced' assets is that it allows them commercial flexibility.

In the EFRP's view, the level playing field logic only becomes relevant once it has been agreed that both life insurers and pension funds are providers of the same product. But since the modality of pension provision, in particular, the balance between the three pillars, is a matter for subsidiarity, each Member State must be free to decide this in the light of the specificities of its own national social protection system. This means that access to occupational pension provision activity cannot be reduced to an economic right of individual businesses and nor should it be imposed at EU-level.

This is why the EFRP understands the intention behind the Commission proposal but questions its appearance in the draft Directive. Moreover, the text needs technical clarification. The EFRP is concerned that the EP seems unwilling to accept as separate issues:



- how individual Member States design their social protection systems (i.e. whether there is 'market access' to Second Pillar is a matter for subsidiarity),
- the manner of participation by life insurers if a market approach is adopted (level playing field issue as distinct from market access).

The EP proposal risks overlooking the main object of the intended Directive which is simply to fill a long-standing legislative gap in an EU-level framework for financial institutions that already covers banks, UCITS and insurers. The Commission proposal already contained complex technical problems, these would only be exacerbated by the EP proposals. The order of priority must be to concentrate on getting pension funds into the single market and then fine-tune the legislative framework for life insurers to the extent they are carrying on occupational pension provision.

#### *(e) Compulsory biometric risk coverage option*

Coverage of biometric risks constitutes a scheme benefit. As such it is part of labour conditions and should be negotiated between employers and employees. The Commission proposal refers to biometric risk coverage but merely as an option, setting out specific technical requirements only if schemes provide such coverage. This means that the proposal is neutral as to which benefits should be included in an occupational pension scheme.

However, under the EP proposal,

- all institutions must make available to their members the possibility of biometric risk cover - even if they do not supply such a product themselves; members then decide collectively whether or not to accept. The justification given by the EP for this is that it will compel members to think carefully about their old age;
- the costs of biometric cover must be identified separately and may not be calculated on the basis of sex or health of individual members.

The EP proposal disregards the relationship between the employer (as sponsor) and the employees by proposing that institutions deal directly with the members. It introduces into the Directive an EU-level prescription as to what product palette an IORP must make available.

Introducing a social policy harmonisation measure risks invalidating the current legal basis and legislative procedure. The proposal is otherwise unworkable and can only be understood as the political price of a compromise with the PSE.

#### *(f) Cross-border membership*

Under the Commission proposal, pensions funds wanting to provide services cross-border to a new sponsor must first notify their home Member State competent authority about the sponsoring undertaking, its Member State of location and the conditions of the pension scheme that is going to be administered.

The home State authority must then check whether the administrative structure, financial situation and reputation of the institution as well as the professional qualifications or experience of the persons running it are compatible with the operations proposed in the host Member State.

Except where there are grounds for doubt, the home State authority must forward the notification to the host State authority within three months of the original notification. The host State would then be obliged to send details of relevant social and labour law to the home State authority within two months. After these had been forwarded to the institution, that institution could start managing the scheme in the host State in accordance with the provisions of the relevant local social and labour law of that State.

Except where issues of doubt arise, when it may be longer, the entire notification procedure can last up to five months.

The Commission proposal for cross-border membership envisaged a notification procedure each time a potential sponsor located in a Member State outside the institution's home State wanted to join a scheme. This procedure would amount to a limited sponsor-by-sponsor, State-by-State licence.

Although one may entertain reservations about the modest scope of the 'mini-licence' and the length of the five month notification procedure, there were also other problematic issues.

First, the proposal simply stated that the host State would subject the institution to **ongoing supervision** as to compliance with **host State labour and social law**<sup>4</sup>. Although it is obvious that an institution providing its services into another Member State must comply with that State's social and labour law, compliance should be enforced by the home State supervisor. The EP proposal would remedy this by introducing a more cooperative approach between national competent authorities with the effect that the primary enforcer would always be an institution's the home State authority.

Another problem arose with the reference to **"individuals"**<sup>5</sup>. This suggested either that individuals could sponsor institutions or that each time a new member joined a scheme that a notification procedure would be triggered. The Commission had apparently intended that the term refer to the self-employed rather than to individual employees. The EP's proposed solution was to relocate the reference to "individuals" to the definitions section where it was made clear that "sponsors" could also included the self-employed.

The EP also put forward ideas for institutional machinery in the form of a **pensions committee** to promote cooperation between Member States to ensure best practices, uniform EU-wide application of the Directive, a level playing field as well as a free flow of information on national social and labour law. This is a welcome idea but its precise details need further thought.

The EP proposals included a social policy element concerning **compulsory membership** in a cross-border context. It wanted an absolute block on any cross-border activity where either collective bargaining agreements or national law demanded that undertakings be required to remain sponsors of specific institutions. This 'Dutch clause' was meant to ensure that those sectoral schemes based on such collective agreements - a labour law aspect - would not be undermined by the Directive. Unfortunately, the blanket ban is excessive and would prevent, say, a collective agreement of sponsors and members in one State from choosing an institution located in another to manage its scheme. Insulation from undesired withdrawals from such schemes by sponsors could be achieved simply by less drastic means by referring to the established case law of the European Court of Justice in this area which acknowledges the distinctive features of such collective arrangements.

*The EFRP drafted proposals to allow types of scheme to be given a cross-border licence on a country-by-country basis, and - using the life insurance framework as a reference point - it spelled out how home and host State authorities could work together to ensure compliance with host State social and labour law.*

## 1.2. Commission reaction to the EP proposals

The Commission reaction, as presented by Commissioner Frits BOLKESTEIN to the Parliament the evening before the plenary vote, was mixed. He expressed surprise at the unusually high number of amendments tabled.

Generally, the Commissioner welcomed the clear liberal strand running through the EP proposals - such as the approaches on prudent person and home State supervision. However, he had reservations on reducing the right of Member States to introduce more detailed measures.

On the social policy proposals tabled, such as the biometric risk cover option or collective decision-making, Commissioner BOLKESTEIN underlined that "this directive should not stipulate how and to what extent benefits ought to be paid out or which biometric risks need to be covered by the institution. ... In the same spirit, the directive should not interfere with the way in which the Member States organise the governance of pension funds. Involvement of social partners in the management of a pension fund is an issue which is sometimes enshrined in national and social law."

Other proposals, such as those on transferability of pensions rights or cross-border cooperation, the Commissioner found to be interesting but out of place in a measure which "has a limited ambition, namely the creation of a prudential framework with stringent prudential standards to ensure security and affordability and allow for mutual recognition." Proposals which went beyond this could be considered - but in other measures.

The EFRP supports the Commission position, including its views on the objective of the Directive and its warnings on the social policy amendments proposed - such as the biometric risk option in particular.

<sup>4</sup> Article 14(5)

<sup>5</sup> Article 20(1) - (3)





### 1.3 Council process

*On the whole, the progress achieved in 2001 by Council was meagre and disappointing despite efforts by the Swedish presidency to move matters along.*

*By the end of the year Council had managed to read 11 of the 23 Articles of the Commission's draft Directive and had not even begun to consider the EPs proposals.*

#### *Swedish Presidency confronted with political problems*

An otherwise vigorous **Swedish presidency** encountered problems which surfaced in May 2001, when the ECOFIN Council issued a statement, concluding that several points were still a matter of contention. Unusually, the statement deviated significantly from the more positive draft published in the agenda beforehand. This itself was ominous and the content confirmed that there was still uncertainty about such basic issues as the institutional scope of the Directive, the treatment of technical provisions and role of the prudent person rule in the investment rules. Some observers described the ECOFIN Council meeting as "an inconclusive general debate" in which differences in view followed a 'North-South divide' amongst Member States.

#### *Belgian Presidency research side-tracks Council progress*

Hopes for progress were further dampened when the **Belgian presidency** decided to launch in the second half of 2001 a survey of national prudential regulation insisting on comparison between quantitative and qualitative approaches as well as inquiring as to supervisory practice and mechanisms.

The responses to the survey were summarized. Some Member States felt frustrated since the summary did not faithfully reflect their system. It drew no clear conclusions.

The EP Rapporteur on the proposed IORP Directive, Othmar KARAS, regretted that in 2001 Council "managed nothing more than the sending-out of a questionnaire". Commissioner Frits BOLKESTEIN echoed this, confessing to being "saddened by the fact that so little progress has been made on the work on the directive ... Precious little has happened in this area over the past six months under the presidency that is about to come to an end."<sup>6</sup>

The Belgian Presidency conclusions for the Laeken Council Summit (14 to 15 December 2001) made no reference to

the IORP Directive, recommending in general terms only that access to occupational pensions be improved.

However, the **Spanish Presidency** would later use the survey results to derive conclusions from it on investment practice. In their view, the Belgian survey had shown two approaches in investment regulation:

- prudent person only
- prudent person plus - the 'plus' referring to quantitative rules meant to add security to performance

This proposal, accompanied by an invitation to Member States to set out their positions in writing on the two approaches, formed part of the Spanish initiative to free the logjam which seemed to have developed around the Directive.

### 1.4. European Economic and Social Committee

*Apart from the EP and Council, the other body involved is the Economic and Social Committee (ESC) albeit in a purely consultative capacity. This institution is a mouthpiece for both sides of EU industry to provide input into the legislative process.*

*It delivered its opinion in March 2001.*

The Rapporteur, Jan Jacob VAN DIJK (Workers Group - NL), drafted a supportive opinion with only a limited number of specific proposals.

On the financial services aspect, these included a suggestion that the full-funding requirement for institutions engaged in cross-border activity be softened to that applicable in domestic situations<sup>7</sup>. The presence even of vestigial quantitative investment rules was questioned. The ESC suggested that transitional periods may be necessary to implement parts of the Directive imposing obligations on institutions.

As far as social policy was concerned, there was also a proposal to block the application of Article 20 on cross-border activity where compulsory collective schemes were involved. Another proposal suggested that governance rules should make it clear that employees and employers sit on the management board of collective schemes which is not surprising considering the composition of the ESC.

<sup>6</sup> Messrs KARAS and BOLKESTEIN speaking in the EP debate "Cross-border provision of occupational pensions" on the VAN DEN BURG Report on the Commission Communication on the elimination of tax obstacles. The comments appear in "Debates of the European Parliament", Sitting of Wednesday, 12 December 2001.

<sup>7</sup> Article 16(3)

## 2. Pan-European pension funds and Taxation

The Commission Communication of April 2001 "The elimination of tax obstacles to the cross-border provision of occupational pensions"<sup>1</sup> was striking in two respects:

- It 'declared war' on discriminatory tax rules against non-domestic occupational pension providers.
- The Commission took up the EFRP proposal for a European Institution for Occupational Retirement Provision (EIORP)<sup>2</sup> thereby signalling that it merits serious consideration by policy decision makers.

Unfortunately, the Council was the only EU body which failed to give its blessing to the initiative, both the European Parliament and the Economic and Social Committee having joined the Commission in responding very positively.

Although without the support of all the EU Institutions for which it had striven, this temporary (one hopes) setback means that the EFRP will redouble its efforts to keep the pilot project moving forward, working together in 2002 with both prudential supervisors and tax authorities in a limited number of Member States.

### 2.1. The EIORP initiative gains substance and profile

In its July 2000 report, the EFRP proposed an outline for a pan-European pension fund, often referred to as a 'European Institution for Occupational Retirement Provision' ('EIORP'). The EIORP concept met with broad interest and was generally positively viewed as being "a pragmatic solution".<sup>3</sup>

Much time had been spent on bringing this report to the attention of selected target groups: EU Commission (various DGs), EU Council, Members of European Parliament, professional associations, financial press and pension funds industry.

The basic idea of an EIORP is that:

- each Member State retains its own approach to the taxation of pension arrangements for residents in its own territory.
- it is a tax-neutral vehicle
- co-operation within existing legal frameworks does away with the need for extra legislation.

The core of the proposal involves setting up a single fund in one Member State where it is subject to the financial services legislation of - and supervised by - that State. The EIORP would administer "national sections" being national pension schemes that should obtain tax approval according to the tax rules of the relevant Member State.

The necessary approvals – for both supervisory and fiscal issues - could be obtained through close cooperation between respective government bodies from each of those Member States.

As originally envisaged, the project could thus be launched without comprehensive EU-wide mutual recognition of financial-prudential issues. Mutual recognition of these issues would have to be achieved by bilateral or multilateral agreement between each of the national supervisors involved. The same goes for the taxation matters.

However, the proposed IORP Directive, if adopted, would now provide EU-wide mutual recognition on prudential matters. This would radically simplify matters, thus enhancing feasibility of the EIORP concept.

### 2.2. EFRP pilot project based on voluntary cooperation

To make the EIORP concept more tangible, the July 2000 report proposed starting off with a voluntary project involving a limited number of likeminded Member States and a company pension fund that aspired to have members in each of those Member States. A first selection included Ireland, the Netherlands and the United Kingdom. At a later stage, the initial group could be extended to include, for instance, Belgium and Luxembourg.

By the end of 2001, the EFRP had re-activated its working group under the auspices of EFRP Director, John FEELY (IAPF, Ireland). Its main task is to implement the pilot project. In practice, this means:

- meeting prudential supervisors and tax officials to discuss their requirements for approval of occupational pension schemes administered by such a pan-European fund.
- identifying a company willing to invest in this project.

<sup>1</sup> COM(2001)214, 19 April 2001

<sup>2</sup> "A European Institution for Occupational Retirement Provision" (EIORP), EFRP, July 2000, Brussels

<sup>3</sup> Activities Report 2000, EFRP, page 9-11

The idea is not only to demonstrate practicability amongst a limited number of Member States but also to persuade the more sceptical Member States that such "enhanced cooperation" (see section 2.4) is both feasible and desirable and that tax neutrality can be secured.

### 2.3. European Commission Communication made a noteworthy analysis on tax obstacles to cross-border occupational pension provision.<sup>4</sup>

The significance of the Commission Communication on the "Elimination of Tax obstacles in Occupational Pension Provision" for the further development of cross-border provision of occupational pensions cannot be overstated. The Commission quite rightly presented it as supplementing its proposal for an IORP Directive.

In its analysis of the impact of taxation on occupational pensions, the Commission found that

1. different taxation treatment of domestic and non-domestic pension providers, constitute a major obstacle to cross-border pension provision and to labour mobility. The Commission found that discriminatory rules were used in the three funding stages of occupational pension provision : the contributions, the accruals and the benefit payments.
2. the diversified and fragmented nature of tax approaches across the EU also acted as a system of barriers that may imply double taxation or double non-taxation in cross-border situations.

Each type of obstacle calls for a different removal strategy.

#### 2.3.1. Combating discriminatory rules - equal treatment for domestic and non-domestic pension funds

Discriminatory hurdles should be abolished immediately. In the Commission's view, they infringe basic EC Treaty rights on free movement of capital, workers and services. A Member State's freedom to set tax rules with a cross-border dimension has to respect those freedoms.

According to the Commission, these limits would be enforceable before the European Court of Justice on the basis of the Treaty. No new law is needed.

However, the Commission pointed out that two types of situation should be distinguished:

- "sedentary" workers  
citizens resident in a Member State want to join a pension institution across border : in the current state of Community law, Member States may require that the pension scheme of a pension provider across border "meets the conditions for tax approval relating to the nature and level of benefits, age of retirement, qualifying beneficiaries and similar proportionate conditions"<sup>5</sup>.
- "migrant" workers  
citizens already member of a tax approved occupational scheme in their home State move, often temporarily, to another Member State : in this situation the "host State cannot refuse to grant tax deduction of contributions paid to the foreign pension scheme on the ground that the scheme does not meet its conditions for tax approval."

*The Commission considered that equal treatment between domestic and cross-border providers should be the rule. Equal treatment should be granted in respect of contributions, funds' revenues and paid benefits.*

#### 2.3.2. Combating the clash of systems

To remove this second type of obstacle, caused by the diversity across the EU in taxation of occupational pensions, the Commission again proposed no new EU level legislative action.

Firstly, the Commission advocates persuading all Member States to accept the EET-taxation model <sup>7</sup>.

Secondly, the Commission acknowledged that Member States must be able to safeguard - and even improve - the application of their tax rules, also in the case of cross-border pension provision. In this respect, the Commission proposed using the neglected Mutual Assistance Directive <sup>8</sup>. This sets up a system for the automatic communication of information between Member States provided that they have already put in place a consultation process to agree on the technical details of the information exchange.

The Commission announced that it would request that consultations are held under the provisions of this Directive in order to put in place detailed arrangements for automatic information exchange on occupational pensions.

<sup>4</sup> Commission Communication COM(2001)214, 19 April 2001

<sup>5</sup> COM(2001)214, page 13

<sup>6</sup> idem

<sup>7</sup> Exempt contributions, Exempt investment income of funds, Tax payments.

<sup>8</sup> Council Directive 19 December 1977 on the mutual assistance by the competent authorities of the Member States in the field of direct taxation, 77/99/EEC, Official Journal L 336, 27 December 1977

### 2.3.3 Pan-European pension fund inspired the Commission but not Council

The EIORP-concept received a major boost by the Communication recommendation to pursue the idea<sup>9</sup>.

Furthermore, the EFRP was invited to assist the Commission as its expert in convincing the relevant Council working group. Some sceptical questions showed that a couple of Member States could not see the merit of the proposal. Perhaps it was too innovative for national tax authorities. It presupposed the willingness from the industry side to supply cross-border assistance and information in respect of wages and personal income taxation items as well as yield taxation.

Sadly, at the **ECOFIN meeting of Ministers of 16 October 2001** Council failed to take the pan-European pension fund idea further. Instead, Member States preferred to focus on safeguarding tax revenues, giving priority to the mutual exchange of information in the area of occupational pensions. The matter would be referred back to ECOFIN before the end of 2002. However, Member States did agree that there was a need to deal with cases of double taxation and double non-taxation which result from the clash of tax systems.

*The EFRP hoped the Commission's recommendation that the EIORP proposal be tested in the field, would be echoed in Council. Unfortunately, Council will need further persuasion before it lends support to the idea.*

## 2.4. European Parliament and Economic and Social Committee support Commission proposals and the EIORP.

In December 2001, the European Parliament adopted its report to the Commission Communication and came out in support of the Commission proposals.

The EFRP proposal to start a pilot project between a limited number of Member States was institutionally framed by referring to the "enhanced cooperation" mechanism of the Nice Treaty. Also the pan-European pension fund proposal received an additional impetus from the EP that called on Member States to facilitate and encourage this initiative of the industry.

The European Parliament noted that the unanimity requirement in the field of taxation makes it hard to legislate effectively and rapidly at EU level. It therefore supported the Commission's intention to bring cases before the European Court of Justice. Rapporteur Ieke van den BURG (PES - NL/PvdA) had achieved cross-party consensus on this highly sensitive issue.

In October 2001, in its Opinion on the Commission Communication, the **Economic and Social Committee** had also come out clearly in support of the concept of pan-European pension fund<sup>10</sup>, as well as welcoming the pilot project with a limited number of Member States.

This Institution also favoured the Commission's idea of using the Mutual Assistance Directive as a way to start up the information exchange needed to safeguard the application of Member States' tax rules. EET as the EU standard for occupational pension taxation should be the objective and Applicant Countries should be made aware of it in advance.

## 2.5 Issue of taxation obstacles set to become more prominent

If the IORP Directive is adopted, taxation will be highlighted as the last major obstacle to true EU-wide mobility for occupational pension schemes.

An EIORP complying with the IORP Directive would have to form separate national sections each of which is tax-approved in the relevant Member States. Therefore, the pan-European fund would still have national 'faces'. The use of sectioning is also perfectly compatible with the basic approach of the proposed IORP Directive in respect of social and labour law.

Although this may seem complex for achieving a coherent EU-wide approach, it nevertheless presents opportunities for European companies.

Only when Member States understand the importance of cross-border membership for efficient funding of occupational pension schemes will their willingness to cooperate with each other increase.

The EFRP hopes that that this will be sooner rather than later and that in the meantime some likeminded Member States start cooperating on this project.

<sup>9</sup> COM(2001) 214, pages 16-18

<sup>10</sup> ECO/071, Tax obstacles - Occupational pensions, 3 October 2001, Conclusion 9.4 and section 8.8

<sup>11</sup> ECO/071, idem, section 8.8.5

## 3. Single Market for Financial Services

A major highlight in 2001 was the presentation by the "Group of Wise Men", under the chairmanship of Alexander Lamfalussy, of its proposals for improving EU legislative procedures for the securities markets. In future, these procedures may be extended to cover other financial services operators, including pension funds.

Implementing the Financial Services Action Plan (FSAP) on schedule in an environment characterized by rapid change has underlined the need for streamlining law-making procedures at EU level. The provision of complex financial products across borders in a single market in which prudential supervision remains primarily a matter for Member States raises problems of cross-border cooperation between national supervisors.

### 3.1. Lamfalussy successful in recommending fast-track legislation

The initial report of Alexander Lamfalussy's Committee of Wise Men <sup>1</sup> gave concrete indications of where the group was heading : an approach which distinguishes enduring, essential framework principles from secondary, implementing rules. The latter could be quickly adapted to keep pace with market developments, whilst the former remained intact.

The EFRP responded to Chairman Lamfalussy supporting this approach.

The final report was presented in **February 2001**. <sup>2</sup> It foresaw procedural and institutional reform within the existing Treaty framework. Law-making in the area of securities markets would become a four-level process:

**Level 1.** EU-level laws would set **broad framework principles**, laying down the essential elements and the scope of delegated powers needed to flesh out the framework. This legislation is made on the basis of a Commission proposal for a Directive/Regulation. In co-decision, the European Parliament and Council agree on the final text and define the implementing powers.

**Level 2.** More detailed measures implementing the framework would come under this level and would involve the Commission:

- consulting the **European Securities Committee**, a body consisting of nominees of Member States, such as State Secretaries, and chaired by the Commission. It would work in a transparent way, reporting to the European Parliament regularly.
- taking advice from the **European Securities Regulators Committee** (ESRC). This committee would be formed of the heads of the competent authorities for securities regulation/supervision designated by each Member State. It would also consult market practitioners, end-users and consumers before giving its opinion to the Commission.

**Level 3.** At this level Member State regulatory bodies would then strengthen their cooperation to ensure uniform application of the EU framework through the ESRC. This process includes developing joint interpretation recommendations, consistent guidelines and common standards, relying on peer review, and comparison of regulatory practice to ensure effective implementation and even enforcement of Community rules.

**Level 4.** This level concerns the enforcement of Community law. The Commission would ensure that Member States really do implement EU law, taking legal action where necessary. It would rely on national regulators, private parties and also the EP as sources of information on (non-)implementation or breaches of EU-law.

A Monitoring Group consisting of two external nominees (i.e. not drawn from the membership of the Institutions) of the Council, European Parliament, and the European Commission should publish half-yearly reports on progress.

<sup>1</sup> Initial Report of the Committee of Wise Men on the Regulation of European Securities Markets, 7 November 2000

<sup>2</sup> Final Report of the Committee of Wise Men on the Regulation of European Securities Markets, 15 February 2001.

The Wise Men's Report was warmly welcomed by the financial industry. Also the **European Commission** and **Council** reacted in favour of the model.

- Welcoming the Report, Commissioner **Frits BOLKESTEIN** said that it was needed for reforming the regulatory frameworks of European financial markets. He congratulated the authors of the report for respecting the institutional balance, and putting forward precise and innovative recommendations which EU institutions and industry should consider adopting as quickly as possible.
- The **Council** adopted a resolution at the Stockholm Summit (23 and 24 March 2001) supporting the four-level model.

The **European Parliament** however was far more reserved, fearing loss of responsibilities to unelected committees. Therefore, it proposed a "call-back" procedure. This would mean that even if Parliament had adopted framework legislation, it would retain a right to review implementary measures. At the end of the year, the Parliament's rapporteur **Karl von WOGAU** (PPE/DE - D/CDU) was floating a compromise which should grant Parliament a certain role in implementary phase without slowing down the process.

*If speeding up the law-making process was a key objective, this proposal risked compromising it.*

Despite Parliament's reluctance to accept it, the Lamfalussy Report makes clear that it is the Member States - whether acting in Council or individually - who most slow matters down.

The European Parliament's record is relatively good. The progress with the IORP Directive is a case in point.

### 3.2. The Financial Services Policy Group

The **Financial Services Policy Group** (FSPG), met five times in 2001. Chaired by Commissioner **Frits BOLKESTEIN**, it consists of personal representatives of EU Finance Ministers and the European Central Bank. It monitors at political level implementation of the **Financial Services Action Plan** (FSAP)<sup>3</sup> within the 2005 deadline for overall completion set at the Lisbon Council of March 2000. Topics covered were:

#### *Pension funds*

These did not figure largely in FSPG discussions in 2001 and were discussed at just one meeting to review the failure by the May ECOFIN to reach consensus on the proposed pension funds Directive (see Chapter 1). Particular areas of concern were technical provisions and investment rules. A Swedish Presidency paper on how to go about defining guidelines on these aspects was discussed, whose object was to generate a dialogue to create a better understanding of different systems and to remove misunderstandings.

#### *Lamfalussy Report*

The Lamfalussy Report (see Section 3.1.) was viewed positively. The FSPG also agreed there should be gradual convergence of national regulatory structures. (At a more general level, the Swedish Presidency report on working methods and areas of political concern was welcomed which recommended identifying early in the decision-making process where and why differences of view exist.)

#### *e-commerce and financial services*

The Commission Communication on E-Commerce and Financial Services<sup>4</sup> was discussed. Its proposals for harmonizing consumer and retail investor protection, for creating out-of-court redress mechanisms and increased cooperation between EU supervisory authorities were broadly welcomed. A Sub Group, set up to review the Commission's strategy on e-commerce for financial services, showed remarkable consensus. However, some members had reservations about the principle that place of establishment should determine applicable law which had appeared the E-Commerce Directive<sup>5</sup>.

<sup>3</sup> "Financial Services: Implementing the framework for financial markets: Action Plan", COM(1999)232, 11 May 1999

<sup>4</sup> "Communication from the Commission to the Council and the European Parliament and of the Council on E-Commerce and Financial Services", COM(2001)66 of 7 February 2001.

<sup>5</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce), Official Journal L 178, 17 July 2000.

### *Clearing and settlement*

The FSPG observed the increasing interest in cross-border clearing and settlement of securities transactions. As a result, the ongoing work of several fora (ECB, BIS and IOSCO) had to be taken into account. The Commission consultation document of April 2001 was noted as were references to the issue in the Lamfalussy Report as well as the need to take the matter into consideration in the update of the Investment Services Directive. The FSPG agreed on the need to analyse and evaluate the need for new legislation in this area.

The November FSPG received the first report of the Giovannini Group on Cross-Border Clearing and Settlement Arrangements in the EU, the object of which is to assess the current arrangements and identify inefficiencies. Fragmentation caused by national diversity, e.g. in tax regimes and legal systems, acts as a barrier. Although there was scope for market-led improvements, public sector involvement was needed to address tax and legal issues.

### *Cross-border payment charges*

The FSPG discussed the effect that the introduction of Euro banknotes and coins in 2002 would have in highlighting the fact that non-cash cross-border payments in Europe would likely remain more expensive than purely domestic ones. This risks undermining the credibility of the Euro. Measures were needed to bring down cross-border charges to national levels (Work proceeded quickly so that although the proposal was launched in July 2001, by December 2001 a Regulation was adopted <sup>6</sup>.)

### *Capital adequacy*

The FSPG reviewed progress in the second round of Commission consultations launched in February 2001 <sup>7</sup> in revising the present capital adequacy framework to secure both greater risk sensitivity and respect for competitive equity between firms and jurisdictions at national and global levels. The work of the Basel Committee of G10 Banking Supervisors, the Commission services and EU supervisory fora was noted

### *Takeover Bids Directive*

The collapse of the Takeover Bids Directive when the European Parliament rejected it after 12 years of negotiations was seen as a major disappointment. The Commission planned to bring forward a new initiative and wanted a Group of High Level Company Law Experts to provide input.

### *EU enlargement*

The FSPG stressed the importance of ensuring that accession countries complied with EU financial services legislation and implemented effective regulatory structures. The importance of "peer review" was stressed whereby experts from Member State banking, insurance and securities agencies evaluate efficacy of accession countries' supervisory practices on the spot.

### *Impact on financial services policy of the terrorist attacks of 11 September*

The FSPG discussed the both the economic impact of the attacks on the financial services sector as well as the need to prevent money laundering and the financing of terrorism. There was a desire to return to market-based approaches to aviation insurance so as to avoid public subsidies.

<sup>6</sup> "Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in Euro", Official Journal, L 344/13 of 28 December 2001

<sup>7</sup> "Commission Services' Second Consultative Document on Review of Regulatory Capital for Credit Institutions and Investment Firms", MARKT/1000/01, European Commission, Internal Market DG, February 2001

## 4. Pensions and Socio-Economic Reform

*The accelerating economic integration between EU Member States within the framework of the internal market means that an individual country can no longer pursue its own social policy in "splendid isolation".*

*The question of how Member States respond to social challenges without transferring more powers to Brussels is one affecting all areas of social policy. One of the main findings of the Social Protection Committee was that finacnability is key to making pensions sustainable although sustainability cannot be reduced to the financial dimension alone.*

### 4.1. The "open method of coordination" and pensions reform

In March 2001, at the Stockholm Summit, President Romano PRODI proposed to the Council that the long term sustainability of pensions be included as a criterion in the Stability and Growth Pact. This met with a lukewarm response.

However, at the same Summit, the Council accepted the "**open method of coordination**" (see box) as a way of promoting a convergence in the field of pensions - a policy area where there is no real Community power to act.

To give effect to this new strategy, a number of advisory and co-ordinatory bodies are involved, such as the Social Protection Committee and the Economic Policy Committee. Both played an important role in this in 2001.

### 4.2. Safe and sustainable pensions - Commission proposed formalising pensions cooperation

An important step in implementing the "open method of coordination" (see box) in the area of pensions was the Commission proposals for ten **common objectives** for Member States to subscribe to **in the field of pensions**. These were set out in its Communication "Supporting national strategies for safe and sustainable pensions through an integrated approach"<sup>1</sup>. The document covered statutory social security schemes, occupational schemes and personal pension schemes.

The Communication recognized the need to respond to current labour market conditions and approaching demo-

#### "open method of coordination" - what is it ?

This 'Eurospeak' term refers to a way of bringing about movement at EU level in policy areas where Member States have not transferred law-making powers to EU institutions. It is linked to the idea of subsidiarity.

The Treaty only gives the EU powers to act in defined policy areas. Outside these, each Member State is free to do as it wishes:

- in 'Europeanized' policy areas (e.g. financial services) majority voting is possible and there are EU-level legal sanctions for non-compliance;
- in 'non-Europeanized' policy areas (e.g. large areas of social policy and taxation), if a Member State does not want to move with others it cannot be compelled to.

The "open method" is a way of facilitating movement at EU level without 'handing over power to Brussels'. It relies on debate rather than dictate: the tools of factual argument take precedence over those of legal compulsion. Its key elements are:

- Member States, together, set broad, **common objectives**
- Member States, individually, translate these into **national policy strategies**
- periodic monitoring on the basis of **commonly agreed indicators**

The main actors are national governments with the Commission acting as a catalyst, facilitator with an information gathering role.

The procedure should promote convergence of national policies by comparison, discussion and peer review via an on-going EU-level forum to identify, agree and implement best practices.

graphic challenges. Apart from proposing common objectives, it envisaged drawing up **annual national strategy reports** for evaluation by the Council and the Commission.

The ten proposed common objectives put forward formed the basis for the eleven proposed common objectives in the joint report of the Social Protection Committee and the Economic Policy Committee (see Section 4.4.).

<sup>1</sup> COM(2001)362 of 3 July 2001



The Commission's ten proposals fell under three headings:

**adequacy:** Pensions should allow people to have satisfactory living standards and should prevent social exclusion.

**sustainability:** To ensure a solid financial basis for state pensions, people need to be encouraged to stay in the labour market and state financial systems should be able to support the schemes.

In private schemes, high prudential standards should apply.

**adaptability:** Pensions should adapt to a changing society, particularly in the areas of flexibility and security. Further, sex discrimination should be phased out.

The proposed objectives were amended later in the year by the joint EPC-SPC report (see section 4.4).

The Commission proposes using common indicators to plot progress towards achieving the objectives. These are being drawn up by the indicators subgroup of the EU Social Protection Committee.

It is envisaged that by July 2002 each Member State will set out its strategy for achieving the aims outlined above. These will have broadly the same format as the current National Action Plans for employment. It would also detail progress achieved. By November 2002, the Commission will have analysed the national reports, identifying good practice and innovative approaches.

A joint report would then be drawn up by the Council and the Commission for early 2003. The European Parliament would then give its opinion on the joint report by May 2003.

#### 4.3. Social Protection Committee

A further element in implementing the "open method of coordination" in the field of social policy was the work of the Social Protection Committee (SPC). The SPC advises both Council and Commission and was set up in June 2000<sup>2</sup> to succeed the High Level Working Party on Social Protection. It is composed of two representatives from each Member State and two from the European Commission.

The SPC was tasked with, inter alia:

- monitoring Member State social protection policies,
- promoting information exchange and
- preparing an annual report on social protection.

As regards pensions, the overall goal is to make both statutory and private systems safe and sustainable.

In June 2001, the SPC presented its first report: "Employment, Economic Reform Competivity, Social Cohesion - Adequate and Sustainable Pensions: **the future evolution of social protection**". This report:

- included empirical analysis identifying likely trends and developments such as demographic changes as well as new employment patterns and family structures.
- identified parameters which any strategy for reform must observe.
- underlined the need to reinforce efforts across inter-connected policy areas (social protection, employment and public finances).

As a main precondition for long-term sustainable pensions it identified the need to maintain their financial sustainability, stressing however that the problem cannot be reduced to the financial dimension.

#### 4.4. Joint Report of the Social Protection Committee and the Economic Policy Committee

In November 2001, the Economic Policy Committee<sup>3</sup> and the SPC presented a joint report "on the objectives and working methods in the area of pensions: applying the **open method of coordination**". This report took into account the Commission's proposals made earlier in the year (see Section 4.2.)

The contribution of the open method in the area of pensions would be to integrate the economic and social dimensions and to provide

- an integrated **reporting framework** on future pension provision
- a framework for the different actors at EU level and

<sup>2</sup> Council Decision of 29 June 2000 (2000/436/EC) published in the Official Journal L 172, 12 July 2000 pages 26 - 27

to develop a common understanding of **national strategies**

- detailed information and analysis regarding national pension strategies to help formulate policy recommendations within the Broad Economic Policy Guidelines

Member States were called upon to present national strategy reports explaining how they will ensure sustainability of pensions and detail any proposals to modernize their systems.

### **Proposals for broad, common objectives**

The Report proposed as **broad, common objectives** the following<sup>4</sup>:

#### *Objectives to ensure adequacy of pensions*

Taking into account national circumstances, Member States take the following steps to ensure their systems fulfil their social objectives:

1. ensure older people are not at risk of poverty, should enjoy a decent standard of living, share in the economic well-being of their country and be able to participate in public, social and cultural life;
2. access for all to appropriate pension arrangements, private or public, allowing the accrual of pension entitlements so that living standards can be maintained to a reasonable degree; and
3. promote intra- and intergenerational solidarity

#### *Objectives to ensure financial sustainability of pension systems*

To make national pension systems financially sustainable, the following measures are to be taken:

4. achieve high employment levels, if necessary by labour market reform as set out in the European Employment Strategy and consistent with the Broad Economic Policy Guidelines;
5. ensure national social protection mechanisms, particularly pensions, encourage older workers to participate. Early retirement should not be promoted. Gradual retirement should be possible;
6. reform pension systems to ensure sustainability of public finances, observe sound fiscal policies and if

necessary reduce debt (could include setting up pension reserve funds);

7. maintain a fair balance between active and retired populations by not overburdening the former and by ensuring adequate pensions for the latter; and
8. ensure, via appropriate regulatory frameworks and sound management, affordability, portability and security of pensions.

#### *Objectives to ensure modernization*

Member States should:

9. ensure their pension systems are compatible with the need for flexibility and security on the labour market; that, without prejudice to the coherence of Member States' tax systems, labour market mobility within Member States and across borders, non-standard forms of employment and self-employment are not penalized;
10. review their pension provision to ensure equal treatment between men and women; and
11. ensure their pension systems are more transparent and adaptable, so that citizens can have confidence in them. Easy-to-understand information on long-term prospects of pension systems should be made available. Promote consensus on policies and reform and improve the methodological basis for efficient monitoring.

The Report closed by listing a series of working methods for Member States, the Commission and the Council.

The report was adopted both by the Employment and Social Affairs Council and also ECOFIN in December 2001. However, the Laeken European Council merely took note of it instead of endorsing it as had been envisaged by the Commission in its Communication of July 2001.

<sup>2</sup> Council Decision of 29 June 2000 (2000/436/EC) published in the Official Journal L 172, 12 July 2000 pages 26 - 27

<sup>3</sup> The Economic Policy Committee, created in 1974, is an advisory body including representatives of Member States, the European Commission and the European Central Bank. It helps to coordinate the economic policies of the Member States and the European Union.

<sup>4</sup> These are clearly based on the Commission's proposals in its Communication "Supporting national strategies for safe and sustainable pensions through an integrated approach" (see 4.2.above).

## 5. Pensions Forum

*This EU-level forum for market practitioners and social partners to exchange views with government officials on matters related to occupational pensions in the EU was given formal status in July 2001.*

*Although the powers of the EU in the field of social and employment policy are limited (see Chapter 3), it is our feeling that the Commission will use the Forum to flesh out a coordinated pensions policy.*

*Its composition has now become more settled and its focus sharper. The EFRP is committed to full participation in this body to ensure that the viewpoint of pension funds is taken into account.*

### 5.1. The Forum is given formal standing

The Pensions Forum, de facto operational since 2000, attained formal standing on 9 July 2001 when the Commission adopted a decision specifying its tasks and structure <sup>1</sup>.

Made up of non-paid representatives from EU governments, the social partners and occupational pension institutions, it advises the Commission on issues and developments affecting occupational pensions, with particular reference to improving cross-border labour mobility.

Of the 45 members appointed by the Commission, the EFRP has three. As of December 2001, the Pensions Forum had the following officers:

President: **Gabrielle CLOTUCHE** (Director, DG Employment and Social Affairs, European Commission)

Vice-President: **Willem HANDELS** (social partner - UNICE - employers)

Vice-President: **Henri LOURDELLE** (social partner - ETUC - unions)

### 5.2. Forum working groups examine obstacles to mobility

Individual Pensions Forum working groups met on 15-17 January 2001.

- *Group 1: acquisition and preservation of supplementary pensions rights*

This group agreed that supplementary pensions were a form of deferred income, recommended shorter vesting periods, and noted structural discrimination against women.

It pointed out that obstacles to mobility also arise in a purely national context. These should be tackled before addressing obstacles to cross-border mobility. It should

primarily be individual Member States and their social partners who remove them.

- *Group 2: transferability of supplementary pensions rights*  
This group identified tax as central to solving the problem of transferability - but tax fell outside the brief of the Pensions Forum.

A framework for comparing transfer values and acquired rights was needed. The Euro and the planned IORP Directive should contribute to this. Despite the restricted powers of the EU regarding social policy and tax, it was hoped that recommendations and discussions at EU level would promote convergence in these areas.

Cooperation between national supervisors should be promoted.

- *Group 3: cross-border membership in supplementary pensions*  
This group underlined the advantages of effective cross-border membership both to employers and employees.

Any solutions had to take into account four different classes of workers:

- posted workers;
- workers who stay with one employer but who move to another Member State;
- workers who move on their own initiative; and
- workers who stay in one Member State but are members of a scheme established in another.

Again tax was identified as a key issue. The EFRP's EIORP concept was discussed positively with reference to the idea of national sections complying with relevant national labour and tax law.

### 5.3. Plenary Meetings

In 2001, the Pensions Forum met twice in plenary <sup>2</sup>. EFRP representatives attending were Kees VAN REES, Alan PICKERING, Withold GALINAT and Chris VERHAEGEN.

Commission officials updated participants on the progress of the draft IORP Directive, tax, alerting attendees to its Communication on eliminating cross-border tax obstacles to pension funds <sup>3</sup> and cases before the ECJ, as well as on employment and social matters, such as the Commission Communication on safe and sustainable pensions <sup>4</sup>.

At the end of 2001, it was decided to set up a working group on the **transferability of supplementary pension rights**, focussing on technical issues (standards for the calculation of transfer amounts, conversion into years of service, cross-border issues) rather than, e.g. the right to transfer.

<sup>1</sup> Commission Decision of 9 July 2001 on the setting-up of a committee in the area of supplementary pensions (2001/548/EC) published Official Journal L 196, 20 July 2001, pages 26 - 27.

<sup>2</sup> At the meeting of 23 February 2001 The most salient conclusion being that the transferability issue should be taken further. A review of existing bilateral tax treaties and their practical application was proposed as greater cooperation between national authorities.

<sup>3</sup> See Chapter 2.

<sup>4</sup> See Chapter 3.

## 6. Pension funds at global level

### 6.1. EFRP / NAPF International Conference in Brussels (22-24 October 2001)

Every two years, EFRP and NAPF organize their joint International Conference. This conference is widely regarded as an excellent opportunity to meet colleagues and exchange views in an informal way. Many delegates came to Brussels to receive a full update on pension fund developments in the EU.

Brussels had been chosen to mark Belgium's EU Presidency.

That **Europe is at a cross roads** was the theme of the introductory remarks by two keynote speakers from the political scene.

Jean-Luc DEHAENE, former Prime Minister of Belgium and currently Vice-President of the European Convention, sketched out the possible impact of enlargement and stressed the need for a European Constitution. One of the issues he stressed, was the need for Europe to become a real world leader if it wants to preserve its social model. Being a world leader would also imply more responsibilities in security and defence area, he warned.

Robert FAUCHER, Institutional Affairs Officer at the US Permanent Representation to the EU, highlighted the new political and economic environment after the 11 September 2001 attacks. He called for support from the EU to strengthen transatlantic cooperation.

Obviously, the *EU-level context for pension funds' activities* constituted a substantial part of the programme. The conference had the honour of welcoming several Commission representatives, such as

- Jean-Claude THEBAULT, Director at the European Commission, DG Internal Market, who delivered a succinct yet very explanatory overview of the IORP directive process
- David WRIGHT, Director at the European Commission, DG Internal Market highlighted the innovative approach the Lamfalussy group had proposed in view of accelerating the legislative process in financial services.
- Peter SCHONEWILLE, the Commission official responsible for the tax Communication, explained recent developments and their possible consequences.

Giving the European Parliament perspective :

- Othmar KARAS, Member of Parliament, presented its views on the proposed directive. He showed satisfaction at the vast majority the report obtained in the EP, which gave it political momentum.

The corporate point of view on the IORP directive came from :

- Withold GALINAT from the BASF group (Germany)

Other conference themes included :

- *Experiences of a Judge of the European Court of Justice* - Judge David EDWARD
- *Living longer - Implications for funding of retirement income* session in which Frank VANDENBROUCKE, Belgian Minister for Social Affairs, and David HARRIS from Watson & Wyatt Partners presented the audience their ideas
- *International accounting standards* and their future were illustrated by Sir David TWEEDIE, Chairman, International Accounting Standards Board.
- *Corporate governance and the McKinsey view* drew comments from Paul COOMBES from the well-known firm and Peter Paul F. de VRIES of the Dutch Vereniging Effectenbezitters (VEB - the stock holders association)
- *The Chilean pensions model* was presented by Pedro CORONA BOZZO, Chairman of the International Federation of Pension Funds Administrators (FIAP)
- *The Netherlands experience* was explained by Evert Jan HENRICHS of the law firm De Brauw Linklaters & Alliance (NL)
- *Could consumers' education substitute regulation ?* was answered by Colin BROWN, Chairman of the UK Financial Services Consumer Panel.

Tradition was upheld by the highly rated *country updates* from across Europe. The selection of countries is determined by whether they have experienced some reform or specific development. In this case, the countries were Belgium, France, Germany, Ireland, Poland, Sweden and the UK.

In his closing remarks, **Chairman Kees VAN REES** announced his departure from the EFRP at its General Assembly later that same day. He did not sound very

optimistic on the progress of the draft IORP directive. Nor did he see encouraging signs coming from the political scene : the challenge of ageing is downplayed and hopes are placed on improved economic performance. Therefore, it is not surprising, according to VAN REES, that little is done to improve the robustness of the First Pillar pension provision. He called for pension policy "rules of the game" similar to those adopted in the Stability & Growth pact in the monetary area.

He criticized certain political groupings for failing to treat the proposed IORP directive as a financial services measure but rather using it as leverage to harmonize social and labour law aspects.

## 6.2. II International Pension Fund Conference in Chile (14-16 March 2001)

*The second International Pension Fund Conference drew pension fund delegates from across the world including the USA, Canada, the EU, Australia, New Zealand, Asia and obviously, almost every Latin American country. After Spain, it was the Chilean Pension Fund Administrations Association and FIAP<sup>1</sup> that splendidly hosted an event that provided EFRP with an excellent opportunity to meet delegations from countries where the occupational pension provision is radically different in its set up. The EFRP is committed to the further development of this liaison work with other regions in the pension funds' world.*

Three EFRP speakers made presentations :

EFRP Chairman, Kees VAN REES, started with an overview of the initiatives at EU-level for harmonising and coordinating legislation on pension funds. He also provided an update per EU-Member State on legislative changes and major developments on the occupational pension scene.

EFRP Vice-Chairman Angel MARTINEZ-ALDAMA (INVERCO, Spain) elaborated on the topic "Pension Funds Investments : Trends, Regulations and Corporate Governance" for Europe. He explained the applicable rules and regulations in regards to corporate governance and their relation to pension funds and discussed possible improvements to be carried out.

EFRP Secretary General, Chris VERHAEGEN, presented the structure of the contribution rates and benefits of the pension systems in the EU. She explained the types of benefits granted, nominal amounts and expected developments in the near future.

The conference also included speakers from international finance institutions in the US who gave presentations on the economic value of pension funds for development and growth. Since delegates from South-American countries outnumbered those of other parts of the globe, most reports referred to individual Latin American countries.

<sup>1</sup> FIAP : Federación Internacional de Administradores de Fondos de Pensiones – International Federation of Pension Fund Administrations.

## 7. Pension fund assets in 2000

The pension funds scene in 2000 contrasted strongly with the excellent results achieved during the past decade. Especially due to highly volatile capital markets, rocky stock markets, and a weakened Euro towards the Dollar and the Pound, the European pension funds in general saw their annual growth rates fall dramatically in comparison with the previous years.

Also in 2000 the bulk of European Second Pillar pension fund assets were held in the UK, the Netherlands, Germany and Switzerland, which together represented about 83% of the total amount (EU + Switzerland, Iceland and Norway).

### 7.1. Total pension fund assets

The total Second Pillar pension fund assets for the European Union rose at the end of 2000 to € 2,484 billion and to € 2,819 billion for the total EFRP Membership - including the Icelandic, Norwegian and Swiss assets. The poor performance of both EU and non-EU capital markets in 2000 is certainly reflected in the overall moderate growth rate of the total pension fund assets in 2000.

<sup>1</sup> The newly set up Luxembourg funds could not yet provide us with any information, meaning that the total Second Pillar pension fund assets for Luxembourg are underestimated

<sup>2</sup> As from the year 2000 onwards the figures from the Spanish Confederación Española de Mutualidades – CNEPS, have been included in the EFRP survey. CNEPS initially provided occupational mandatory PAYG pensions. However, for several years they have been under transition and can now be regarded as fully funded Second Pillar pension providers.

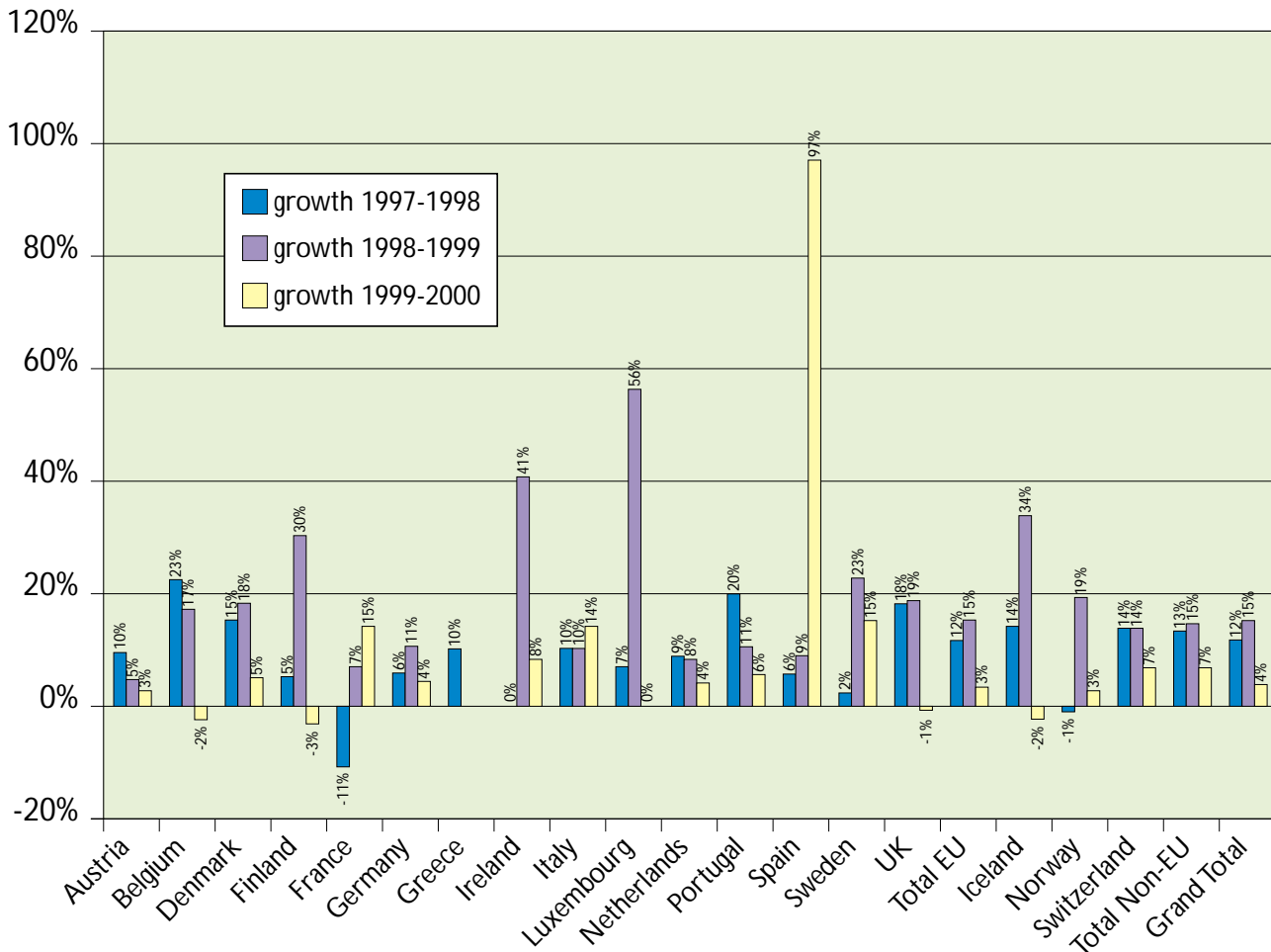
This dominance is also reflected in the absolute amount of people being covered by Second Pillar pension fund schemes in the respective countries.

In contrast with the basic trend towards higher equity exposure in their portfolios during the last decade, pension funds in the year 2000 adjusted their asset allocation in function of market conditions: bonds and real estate increased their relative importance within pension funds' portfolios and also other alternative investments received more attention.

### Total Pension Fund Assets 2000

Countries	in bn. Euro	
	2000	1999-2000 growth rate in %
<i>European Union</i>		
Austria	24.71	3%
Belgium	14.51	-2%
Denmark	41.99	5%
Finland	11.80	-3%
France	92.16	14%
Germany	331.30	4%
Greece ('99)	5.06	0%
Ireland	52.54	8%
Italy	29.95	14%
Luxembourg <sup>1</sup> ('99)	0.05	0%
Netherlands	445.00	4%
Portugal	13.08	6%
Spain <sup>2</sup>	42.39	97%
Sweden	139.64	15%
UK	1,240.23	-1%
<b>Total EU</b>	<b>2,484.41</b>	<b>3%</b>
<i>Non-EU</i>		
Iceland	6.54	-2%
Norway	7.52	3%
Switzerland	321.00	7%
<b>Total Non-EU</b>	<b>335.06</b>	<b>7%</b>
<b>Grand Total</b>	<b>2,819.47</b>	<b>4%</b>

### Growth rates pension funds 1997-2000 in %



Note: in 1998 modifications were made to France's accounting standards for the calculation of the pension assets. This means that caution is required when interpreting the value of assets before 1998 with the assets as from 1998 onward (which explains the negative growth figure for 1997-1998).

Whereas the assets on average still grew by more than 15% from 1998 to 1999, this figure dropped to 3% (EU-15) and 4% including Iceland, Norway and Switzerland for the growth rate between 1999 and 2000.

Only a few countries managed to achieve two-digit growth rates (1999-2000), these being France, Italy, Spain and Sweden. Although the total Spanish growth rate for 2000 is somewhat misleading due to the inclusion of CNEPS figures into the database, their net growth rate (excluding CNEPS assets) in 2000 still reached 35.1%. One of the main reasons for this remarkable result is explained by the companies' externalisation process of

pension liabilities. Since legislative changes in Spain no longer allow companies to hold money they have to pay for the retirement of their workers on their balance sheets (book reserve system), contributions to corporate pension funds have rocketed.

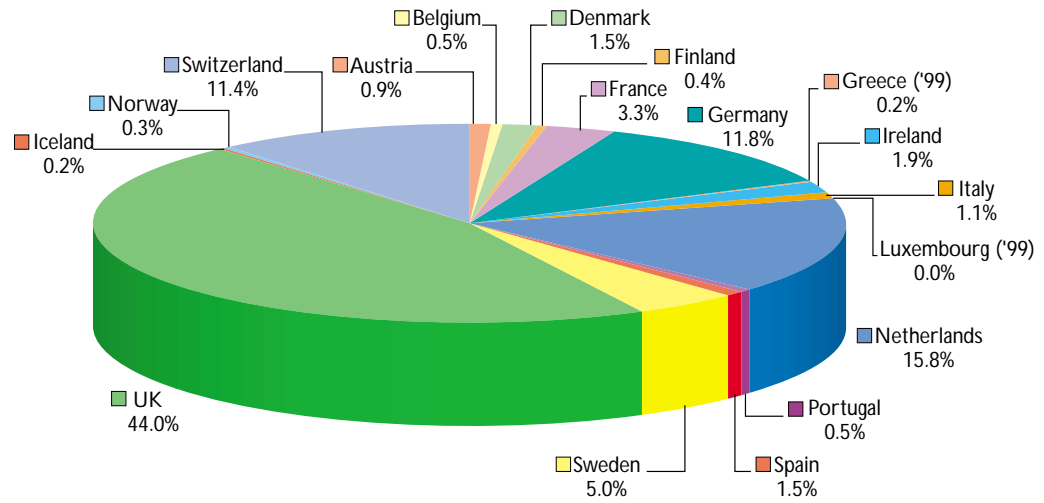
Italy's 14% growth rate is primarily based on new memberships to Italy's new Second Pillar pension system (closed and open pension funds).

The 8% growth rate Ireland achieved between 1999 and 2000 can be broadly split up into a net new money growth of approximately 4.4% and 3.6% growth due to performance of the underlying assets <sup>3</sup>

<sup>3</sup> FIAP



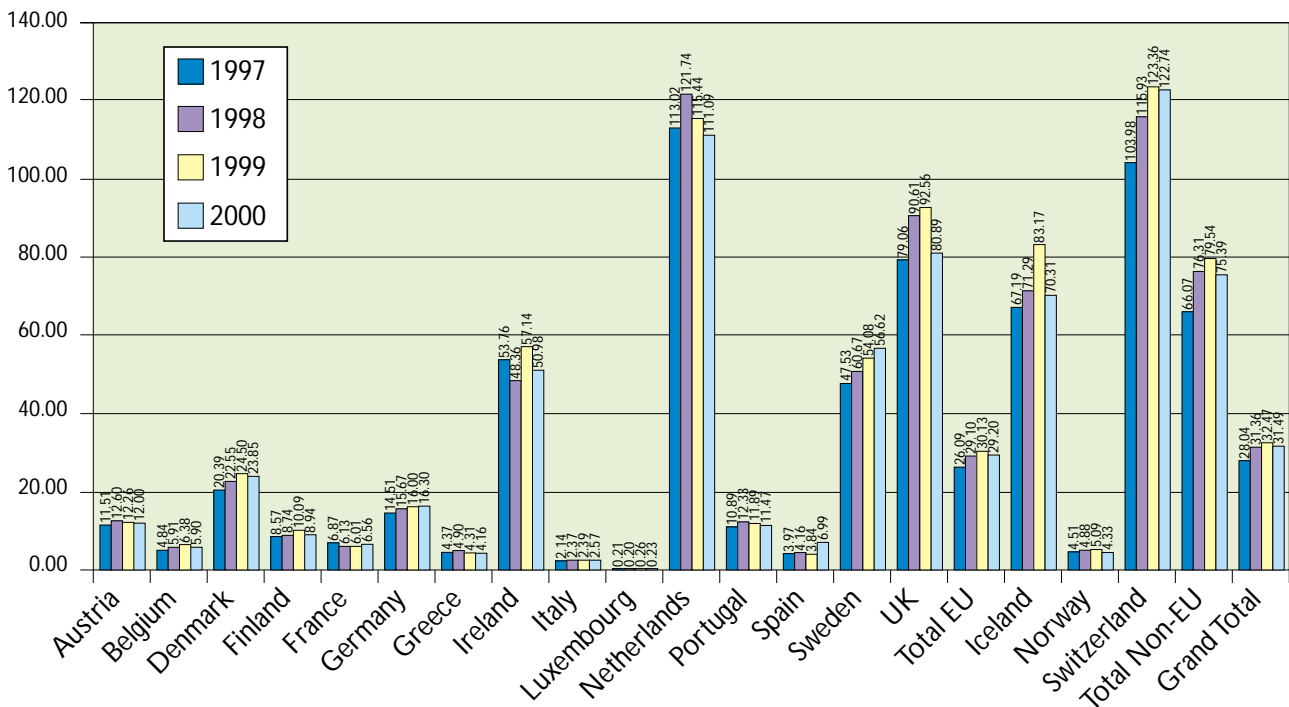
The geographical breakdown of Second Pillar pension fund assets is illustrated as follows:



Four countries (UK, Netherlands, Germany and Switzerland) continued to dominate the European

Second Pillar pension scene, with market shares in 2000 of 44.0%, 15.8%, 11.4% and 11.8% respectively.

## 7.2. Second Pillar pension fund assets as a percentage of GDP



Looking at the importance of the overall EU-Second Pillar pension fund assets in comparison to EU-GDP, one notices a slight decline in relation to the 1999 figures, bringing the relative weight of Second Pillar pension funds assets back to its 1998 value. The same picture also goes for the EU-15 plus Switzerland, Norway and Iceland.

Since pension fund asset figures are being calculated at market value, the overall decline of stock market prices is certainly reflected in the graph above.

However, some countries (France, Germany, Italy, Spain, and Sweden) managed to resist, leading to Second Pillar pension funds gaining weight within their respective national economies, mainly due to net inflow of contributions.



When looking at the relationship between Second Pillar pension funds as a percentage of GDP on a country-to-country basis, Switzerland still takes the lead, closely followed by the Netherlands. The Swiss total amount of assets under pension fund supervision exceeded the total GDP by over 22.74% in 2000, whereas the Dutch pension

funds slipped from 15.4% above GDP in 1999 to 11.09% in 2000. The top-five also included the UK going from almost 93% in 1999 to nearly 81% in 2000, Iceland falling back from 83% in 1999 to 70.31% in 2000 and Sweden with 56.62%, jumping over the number 5 of 1999 (Ireland).

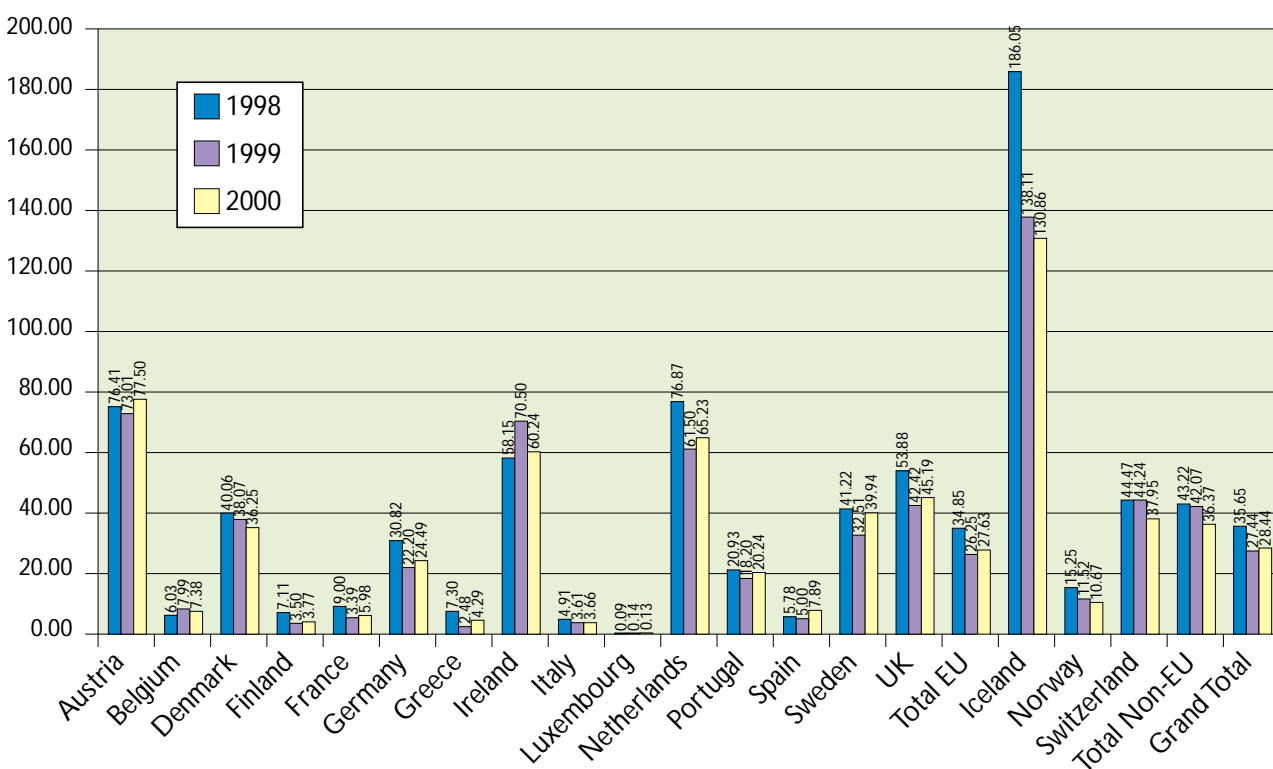
### 7.3. The importance of Second Pillar pension fund assets as to stock market capitalisation

Highly volatile EU and non-EU stock markets, as well as the weakening of the Euro against the Dollar and Pound during the year 2000 are two major factors which certainly dominated the European stock market scene and of which the effects are reflected in the graph above.

The weak performance of their respective stock markets as well as either low or lowered percentages of portfolio held in equities, could explain this phenomenon.

The 2000 picture seems indeed very diverse. On the one hand some countries (Austria, Finland, France, Germany, The Netherlands, Portugal, Sweden and the UK) have managed to strengthen the relative importance of Second Pillar pension funds towards stock market capitalisation.

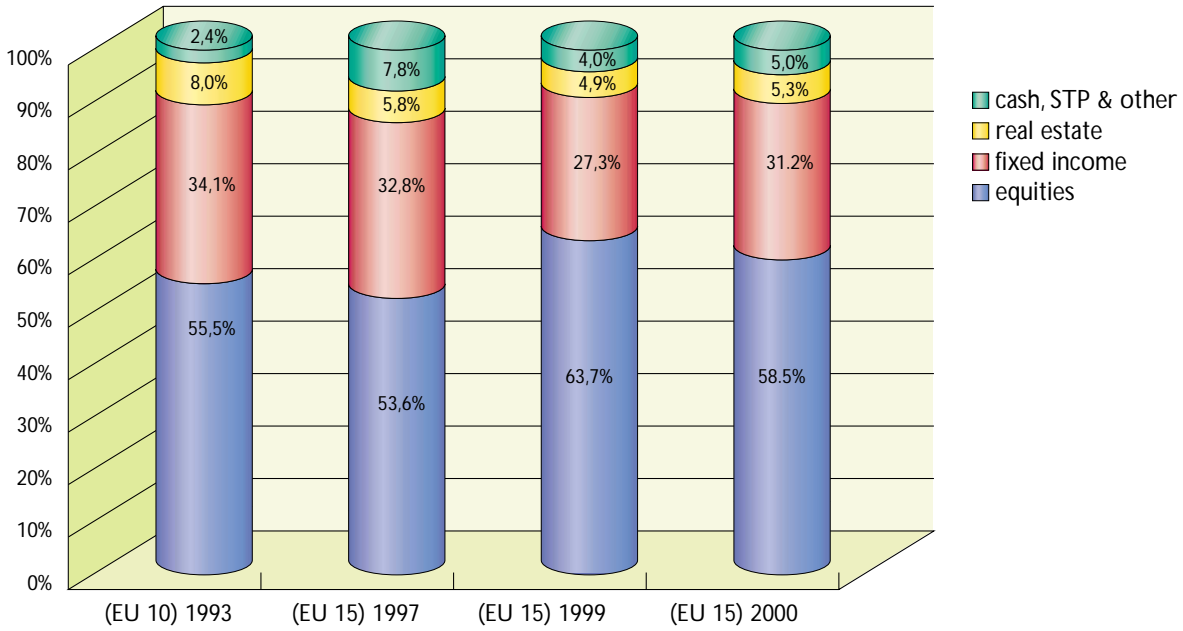
Other countries, on the other hand (Belgium, Denmark, Ireland, Norway and Switzerland) went in the opposite direction losing relative weight versus stock market capitalisation. There are no indications this may be caused by net outflow of assets.



### 7.4. Breakdown of funds into the major asset categories

Flourishing stock markets, a relaxation of regulatory ceilings on equity exposure in several European countries and a general increased appetite for portfolio diversification, drove most continental European pension funds towards a higher exposure of equities between 1993 and

1999. During that same period the UK's exposure to equities has edged the other way. However it still remained the European leader with 71% of the total amount of assets being invested in this category.

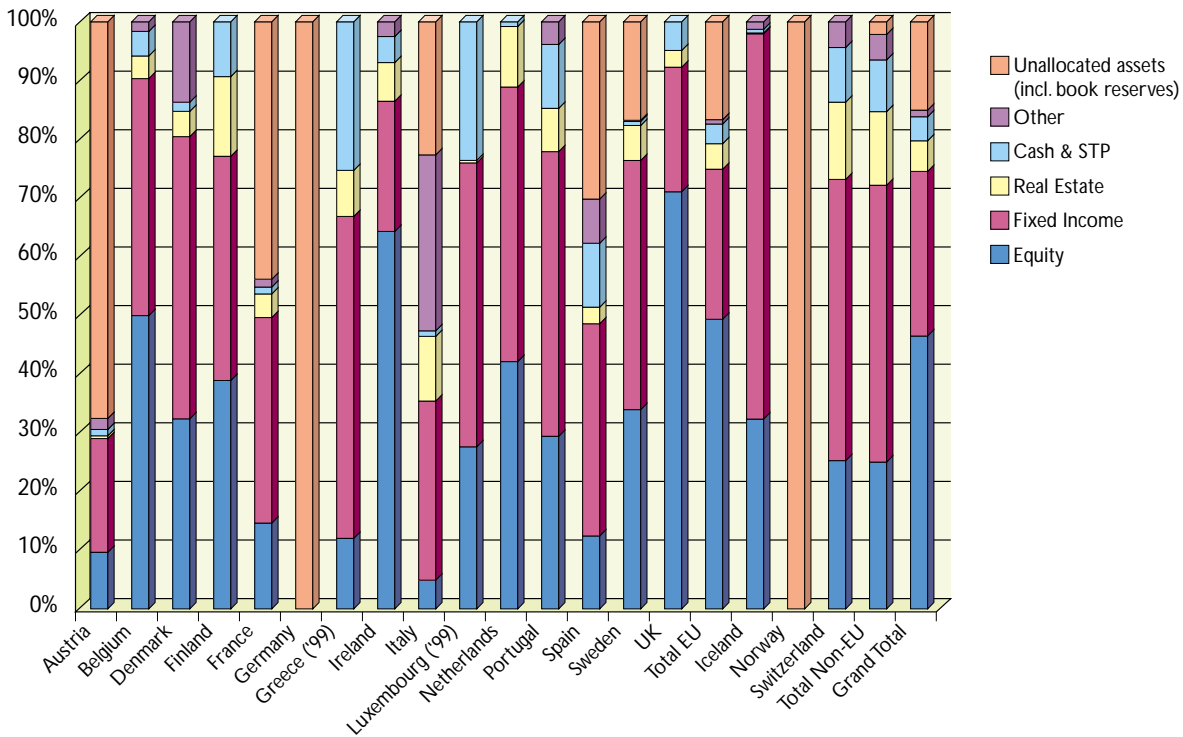


Note: EU (10): twelve member states of the EU prior to January 1, 1995 minus Luxembourg and Greece.

Especially due to poor stock market performances in the year 2000, this trend has been somewhat reversed, resulting in a reduction in equity exposure between 1999 and 2000 in favour of bonds, real estate and cash and short

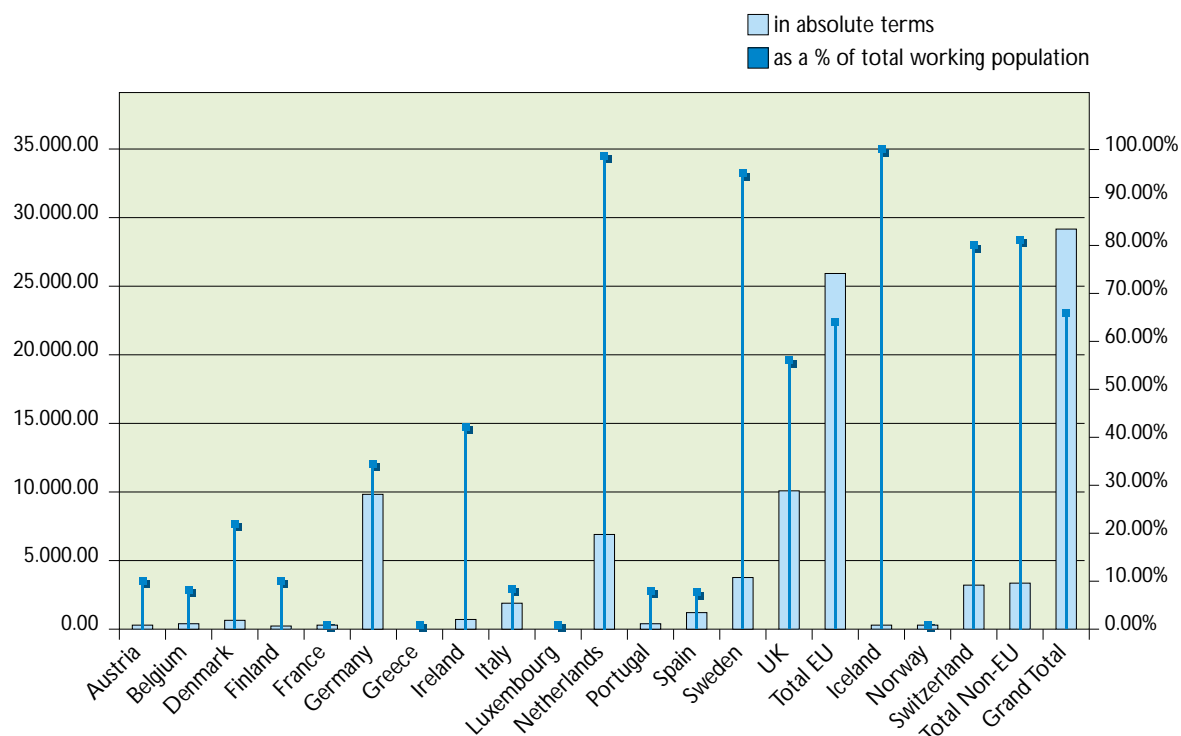
term placements.

A country-by-country overview for the year 2000, reveals the following picture:



Note: Germany and Norway could not provide any breakdown as to asset allocation for 2000.

## 7.5. Coverage of Second Pillar pension funds



Note: No figures available for France, Greece, Luxembourg and Norway. The Belgian figures are the results from the BVPF/ABFP survey and only cover about 85% of the total Second Pillar pension funds.

In Iceland, the Netherlands, Sweden and Switzerland most of the working population is covered by Second Pillar pension fund provisions. Percentage-wise this coverage reaches 100% in Iceland, 98.55% in the Netherlands, 95% in Sweden and 80% in Switzerland. The overall UK Second Pillar occupational pension schemes cover 56% of the working population whereas in Ireland these schemes reach about 42% of the total working population.

The overall EU total weighted average amounts to 63.93% of the total EU-working population and 65.86% when Iceland and Switzerland are also taken into account.

In absolute terms, the UK takes the lead with a total amount of about ten million people being covered, followed by the Netherlands (6.8 million), Sweden (3.68 million) and Switzerland (3.14 million).

Although the Italian Second Pillar pension funds already reach 1.79 million people, this amount only accounts for 8.30% of the total working population. The same picture goes for Spain where almost 1.17 million people are covered by occupational pension funds. In relative terms however this figure is being put in its proper perspective, since it corresponds with 7.56% of the total working population.

Furthermore it should be highlighted that these figures exclude occupational scheme coverage catered by group-life insurance contracts. For some countries the coverage of working population would (in case of the inclusion of these figures) increase dramatically (Belgium and Germany).

## 8. Public platforms to present the EFRP and its opinions

*The tax obstacles for pan-European funds and the Commission proposal for a Directive on pension funds were the focus of a multitude of conferences and panels.*

*EFRP is keen to participate in debates as a means to disseminate ideas and opinions. Over the years, EFRP representatives have become highly valued speakers and the organisation was faced with the need to be selective while balancing resources and the need to communicate at different levels and in different countries.*

### **Friends of Europe and Federal Trust, “Defusing Europe’s Pensions Time bomb”, Brussels – 06.02.2001**

This conference discussed the practical and political steps needed to ensure that adequate pension reforms were put into place in time to combat the pension crisis. It marked Federal Trust's second report on EU pension reform. EU governments are faced with major challenges in that respect. The report called for substantial changes in Europe but believed that ultimately the EU Member States would be able to meet their future pension liabilities within the limits of the Maastricht Treaty and the “Growth and Stability Pact”.

According to EU Commissioner for the internal market, **Frits BOLKESTEIN**, funded pensions would play a greater role in the future and the EU Commission proposals for pension fund supervision in the proposed directive would enhance funds' safety and efficiency. Furthermore he argued that pensions must be affordable and only with common prudential standards would cross-border membership be acceptable.

**Jos VAN NIEKERK**, Managing Director of the Dutch Unilever Pension Fund Progress, saw the draft directive as a welcome step. However, he thought that the proposal should provide pension funds with a full single license. Only then can pan-European pension funds develop and flourish. Tax on pension contributions, returns and payments still needed a solution, he pointed out.

EFRP Chairman, **Kees VAN REES**, stressed that the EU Commission should continue to promote its proposals for a directive on pension funds. He urged the

Commission to give the EFRP proposal for a European Institution for Occupational Retirement Provision in respect of tax obstacles a place in its overall taxation proposals. He was less hopeful than the Federal Trust report and said that a lot of reforms still have to be made. Therefore it is all the more important that companies can use funding vehicles on an EU-wide scale.

### **Goldman Sachs Pension Reform Seminar, “Roundtable on Pension Reform: the need, the urgency and the format”, Brussels – 28.02.2001**

**Kees VAN REES** said that over the years, pension funds have increased their knowledge of how to operate effectively in the capital markets, taking advantage of the expertise and services provided by other financial institutions.

According to VAN REES, real pension reform in Europe implies seriously tackling the problems which will face first pillar financing. Europe needs a much better balance of first and Second Pillar pensions by promoting investment freedom without too much bureaucracy. Fundamental differences between life insurance business and pension funds ought to be recognised. Taxation coordination ought to be allowed to develop along its own track, separate from the pension fund directive, if we want to progress in each of those areas.

This gathering attracted a significant number of MEPs, their assistants as well as policy advisors from other organisations and bodies.

### **WPA, II International Pension Fund Conference, Santiago de Chile – 14-16.03.2001**

EFRP participated in this conference that was organised and hosted by FIAP (Federación Internacional de Administradores de Fondos de Pensiones – International Federation of Pension Fund Administrations) and the Chilean Pension Fund Administrations Association. (See Chapter 6: Pension Funds at global level)

**Royal Institute of International Affairs (RIIA) in association with EFRP, "European Pensions Conference", London – 29-30.03.2001**

**Kees VAN REES** chaired the session on "Creating a pan-European Pensions Framework".

**EU Swedish Presidency, "Safe & Sustainable Pensions in Europe", Stockholm – 03-04.04.2001**

**Kees VAN REES** chaired the session on "the quality of supplementary pension schemes". He further participated to the closing round table discussion on EU pension reform.

The goal of the conference was to increase understanding of where Europe now stands with regard to adequacy and sustainability of pension systems.

**Information Management Network in association with the Irish Association of Pension Funds (IAPF), "European Pensions Summit", Dublin – 18-19.04.2001**

Apart from EFRP Director and Chairman of the IAPF, **Tom FINLAY**, two other EFRP representatives each delivered an address:

**Alan BROXSON**, former EFRP Chairman

**Alan PICKERING**, at that time NAPF Chairman

**CNEL, – National Advisory Committee for Labour and Economic Policies (government body), Hearing, Rome – 24.04.2001**

**Chris VERHAEGEN** was invited for a hearing on the prudential supervision of pension funds as part of the preparatory process for the CNEL-opinion on the EU directive on pension funds.

**UNICE, Working Group on Financial Services, Brussels – 04.10.2001**

**Chris VERHAEGEN** gave a presentation on the pro-

posal for a pension funds Directive and called for the support of private industry employers both at EU and member state level.

**European Parliament - UK Conservatives, Hearing on IORP Directive & Tax obstacles, Brussels – 22.11.2001**

**Chris VERHAEGEN** briefed a number of UK conservative MEPs on EFRP views in respect of the draft pension funds Directive and the taxation Communication. She took the opportunity to present the EFRP as the representative organisation of occupational pension funds.

She further explained the EFRP proposal for the creation of a pan-European Pension Fund, which had been referred to in the Commission's Communication on tax-obstacles. She stressed that the proposal for a pan-European pension fund is workable and desirable, but during the discussion she confirmed that much technical detail would need to be provided.

**Joint Catholic Universities of Leuven (KUL) and Louvain (UCL), "6th International Colloquium on European Law on the theme of "Complementary Social Provision in the European Union – Pensions and Health Care", Brussels – 19-20.12.2001**

The Catholic Universities UCL and KU Leuven jointly organised the 6th International Colloquium on European Law on the theme of "Complementary Social Provision in the European Union – Pensions and Health Care".

This colloquium was intended to stimulate the debate on a number of fundamental questions of legal, social and political nature that arise out of the difficulties which pension provision is expected to face. Attention was given to the initiatives taken at EU level on prudential, financial, social and fiscal aspects of the supplementary social benefits.

**Chris VERHAEGEN** participated to the panel discussion on supplementary social benefits – pensions in particular - in the European context.

## 9. EFRP celebrates 20 years of existence

The EFRP was founded in March 1981. In October 2001 it celebrated 20 years of existence in style in Brussels.

By 1981 the E(E)C Treaty was itself over 20 years old and although it promised to guarantee basic cross-border freedoms for all economic players, occupational pensions remained locked in their national markets...

The EFRP came into existence in response to the 1979 Directive on the equal treatment of men and women in relation to social security. Since then, under each of its eight chairmen, it has pushed initiatives at EU level to guarantee pension funds the Treaty freedoms: freedom to invest, freedom to provide services and freedom to buy services. These freedoms should be embodied in a single European license for occupational pension funds.

The EFRP has continuously grown in size and influence. Starting out with 6 full members it now has over 20 - covering almost the entire EU as well as several countries outside. It looks set to grow as the EU expands.

It is now regularly consulted by EU decision makers and provides them with expert advice and statistical data.

To celebrate this successful track record, EFRP hosted a well-attended cocktail party on 22 October in the Sheraton towers in Brussels and published a commemorative book.



*Introducing the specially commissioned book, "EFRP Twenty Years" - the EFRP's birthday present to all its Members and relations -*






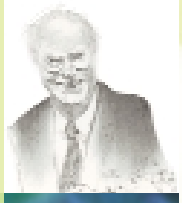


**Internal Market Commissioner Frits BOLKESTEIN** stated :

*"The European Commission has found in the EFRP a reliable partner both for policy input and technical expertise. ...*

*Without doubt, the EFRP's role is bound to increase. ..."*

## KEY EVENTS IN EUROPE FOR PENSION FUNDS

## EFRP Chairpersons

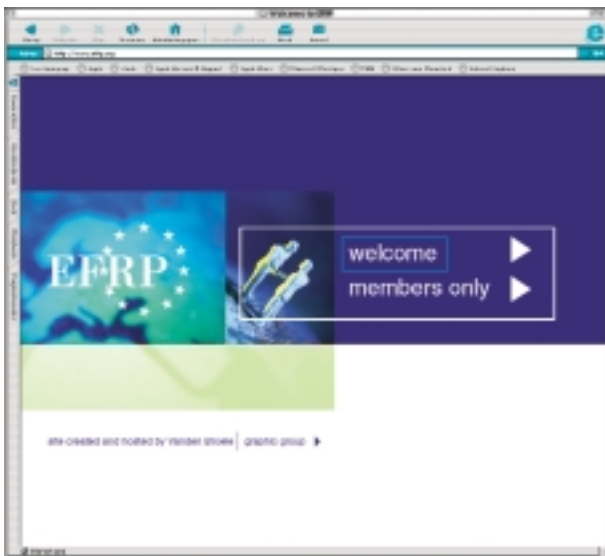
EEC Treaty enters force - cross-border freedoms for all economic players...	1958		
Commission Report on contribution of pension funds to the capital markets	1968		
'Defrenne' Judgement - European Court of Justice (Case 43/75)	1976		
Directive 79/7/EEC on equal treatment for men and women (pensions)	1978		
'Defrenne' Judgement - European Court of Justice (Case 149/77)	1978		
	1981	EFRP founded 30.03.1981 Maurice H. OLDFIELD 30.03.1981	
	1983	G.O.J. Van TETS 19.09.1983	
	1985	Jos VERLINDEN 07.10.1985	
'Bilka Kaufhaus' Judgement - European Court of Justice (Case170/84)	1986		
Equal Treatment Directive in Occupational Social Security Schemes (86/378/EEC)	1986		
	1988	John A. JOLLIFFE 07.10.1988	
Sir Leon Brittan gives "Three Freedoms" speech on pension funds	1989		
'Barber' Judgement - European Court of Justice (Case 262/88)	1990		
	1991	Philip LAMBERT 06.10.1991	
Commission Proposal for a Directive relating to the freedom of management and investment of funds held by institutions for retirement provision (COM(91)301)	1991		
	1994	Alan BROXSON 31.10.1994	
Commission withdraws the 1991 proposal for a Directive	1994		
Commission publishes a Communication on pension funds	1994		
France starts Court case on Commission Communication (Case C-57/95)	1995		
Revision of Equal Treatment Directive M/W for Occupational Social Security (96/97/EC)	1996		
Commission loses in Case C-57/95	1997		
Commission Green Paper on Supplementary Pensions in the Single Market (COM(1997)283)	1997		
	1997	Kees VAN REES 15.10.1997	
Commission Communication "Towards a Single Market for Supplementary Pensions"	1999		
Commission Proposal for a Directive on the activities of IORPs (COM(2000)507)	2000		
European Parliament approves KARAS Report on proposed IORP Directive	2001		
	2001	Alan PICKERING 25.10.2001	
Council Common Position on proposed IORP Directive	2002		

## 10. EFRP goes online

After almost one year of preparatory work, the EFRP website finally went online at the end of October 2001.



Since a website is never final, this initial design and lay-out should be primarily seen as a move to put the EFRP on the web map while delivering some basic information on pensions issues.



Right from the start, the EFRP has opted for a dual approach, which means that from the first page onwards the website has been divided into a general part (open for all) and a restricted area, only open for the EFRP Membership. Both parts have different purposes and therefore differ in layout and structure.

As to the **generally accessible** part of the website, the main focus has been put on:

- a general presentation of the EFRP
- introduction of the various EFRP bodies (Board of Directors, EFRP Members and Sponsors, EFRP Secretariat)
- some basic statistics on Second Pillar pension funds
- basic information/publications on Second Pillar pension funds
- links to other important websites relating to pensions issues.



The **Members' area** of the website gives more information on specific topics and 'hot issues', providing internal notes etc. on pensions issues. It should be seen as yet another way to optimise the communication with the EFRP Membership at large.

It is also in this context that new enlargement plans for the website are already under consideration, which are designed to serve more categories of the EFRP Membership with their particular requests as to documents and information.



## 11. Organisation for economic co-operation and development (OECD)

### 11.1. OECD Working Party on Private Pensions

The Working Party on Private Pensions was set up in 1998 to meet twice a year and complete, in the space of four years, three main tasks:

- to survey private pensions
- to formulate policy recommendations
- to promote policy dialogue with Non Member countries on private pensions issues.

As part of its core surveying functions, the Working Party has launched a comprehensive data collection exercise that will lead to the development of methodological guidelines for a world taxonomy of private pension systems. This work is being co-ordinated with the International Network of Pension Regulators and Supervisors (see below).

Initially the focus of the data collection exercise will be the structure, regulation and supervision of private pension systems in Member countries. Information collected will cover both occupational and personal pensions plans. The proposed taxonomy for "pensions", which was further developed during 2001, can be broken down in three different levels:

- **taxonomy for pension plans/schemes** – with further split ups:
  - public vs. private pension plans
  - mandatory vs. voluntary pension plans
  - occupational vs. personal pension plans
  - funded vs. unfunded pension plans
  - DB vs. DC
- **taxonomy for pension funds** - with further split ups:
  - autonomous vs. non-autonomous
  - collective/group vs. individual
  - closed vs. open
- **taxonomy of private pension systems** – on the basis of five basic criteria:
  - retirement purpose: benefit/account balance liquidity
  - funding and risk bearing
  - administration of funded pension plans and funding vehicle
  - eligibility and participation
  - tax treatment

The database will be complemented with statistical information on assets and coverage being collected by the Working Party on Financial Statistics.

New work is also proceeding on three specific policy issues : investments, corporate governance and annuities.

Finally, the Working Party on Private Pensions has also decided to create a Task Force devoted to personal pension plans.

### 11.2. International Network of Pensions Regulators and Supervisors (INPRS)

The INPRS is a global network of pensions regulators and supervisors, for which the OECD provides the Secretariat. It currently operates three regional chapters. One Central and Eastern European (CEE) regional INPRS is in operation, alongside an Asian-Pacific regional INPRS and a Latin American one.

The INPRS was created during the First Meeting of the OECD Forum on Private Pensions held in Prague, 3-7 April 2000. Its aim is to serve as a platform for policy dialogue and co-operation on regulatory, supervisory, and financial issues related to pensions. More than 120 regulatory and supervisory authorities from 64 countries, in addition to 12 international organisations have been listed.

EFRP was granted observer status early 2001.

On 24-26 April 2001, the INPRS held its first conference and research seminar in Sofia, Bulgaria.

The highlight of the INPRS conference was the agreement on the **15 Principles for the Regulation of Private Occupational Pensions**. These principles had previously been approved by the OECD Working Party on Private Pensions at its meeting in November 2000. The Principles set out general guidelines for developing an adequate regulatory framework for private occupational pensions. The objective is to promote two essential pre-conditions for an appropriate development of private pension plans in the world, i.e. the protection of the rights of beneficiaries and the financial security of pension providers.

Other items included :

- The approval of the programme of work of the INPRS, which will largely complement that of the OECD Working Party on Private Pensions.
- The decision to establish a Technical Committee of the INPRS to meet at least twice a year.
- The proposal by the World Bank and the International Social Security Association (ISSA) to contribute to work on international comparative analysis and development of good practices for private pensions in cooperation with the INPRS.

The research seminar dealt with financial issues related to retirement provision. Representatives from the academic community also expressed their interest in working with the Network.

Later during the year an agreement was reached with Cambridge University Press to publish the "**Journal of Pensions Economics and Finance**" in association with the INPRS. The INPRS Secretariat serves as the managing editor. The first issue was published early 2002.

## 12. EUROSTAT – pension fund statistics

The amendment of the Council Regulation 58/97/EC/Euratom regarding the Structural Business Statistics (SBS) entered its final stage during the year 2001. This is the main legal framework for collecting, compiling, transmitting and evaluating statistics on the structure, activity, competitiveness, and performance of business. It needed to be updated to include amongst others the specifications and technicalities for the creation of a pension funds database (as Annex 7 to the Regulation).

After the European Commission had adopted the final draft proposal on the incorporation of pensions and other financial services into the EU Structural Business Statistics Regulation (end 2000), it was submitted to the European Parliament for discussion.

On the basis of a report by Ms Astrid LULLING (EPP/ED - L/PCS), the European Parliament proposed few amendments, which were mainly of a technical nature. The most important ones are that:

- some variables (e.g. geographical breakdowns), which in the initial Commission proposal were to be gathered on an optional basis, should be made mandatory
- some gender-related variables on employment should be included
- a reduction in the level of regional breakdown was proposed

On 27 September 2001, the Commission accepted all amendments proposed by the European Parliament and a Common Position in Council is expected in May 2002.

Once adopted, the amended Regulation shall be binding in its entirety and directly applicable in all Member States without transposition into national law.

In the meantime EUROSTAT also started publishing preliminary pension funds figures on an EU country-by-country basis. At present, those data are still gathered as a voluntary contribution to EUROSTAT's operations. Consequently, the results are not as yet comprehensive. EUROSTAT is working towards the full coverage of pension funds statistics. To get a better understanding of which institutions are covered by their statistical surveys, EUROSTAT produced a list of institutions per country.

Statistics and other EUROSTAT news can be viewed and downloaded from their web site:

<http://europa.eu.int/comm/eurostat/Public/datashop/print-catalogue/EN?catalogue=Eurostat>

## 13. EFRP Organization

### 13.1. EFRP Board of Directors, 31 December 2001

Chairman:	<i>Kees J.</i>	<i>VAN REES (NL)<sup>1</sup></i>
	<i>Alan</i>	<i>PICKERING (UK)<sup>2</sup></i>
Vice-Chairmen:	<i>Alan</i>	<i>PICKERING (UK)<sup>1</sup></i>
	<i>Ulrich</i>	<i>JÜRGENS (D)<sup>1</sup></i>
	<i>Jaap F.</i>	<i>MAASSEN (NL)<sup>2</sup></i>
	<i>Angel</i>	<i>MARTÍNEZ-ALDAMA (E)<sup>2</sup></i>
Directors:	<i>Tom</i>	<i>FINLAY (IRL)<sup>3</sup></i>
	<i>Jaap F.</i>	<i>MAASSEN (NL)<sup>1</sup></i>
	<i>Angel</i>	<i>MARTÍNEZ-ALDAMA (E)<sup>1</sup></i>
	<i>John</i>	<i>FEELY (IRL)<sup>4</sup></i>
	<i>Georg</i>	<i>HAGSTRÖM (S)</i>
	<i>Dietmar</i>	<i>NEYER (A)</i>
	<i>Rhoslyn</i>	<i>ROBERTS (UK)<sup>2</sup></i>
	<i>Joachim</i>	<i>SCHWIND (D)<sup>2</sup></i>
	<i>Anne</i>	<i>SEIERSEN (DK)</i>
	<i>Jos</i>	<i>VERLINDEN (B)<sup>5</sup></i>

### 13.2. EFRP Member Associations

#### EU Member Associations

AUSTRIA	<b>Fachverband der Pensionskassen</b> Dr Fritz JANDA Wiedner Hauptstrasse 63 A – 1045 Wien Tel: +43-1-501.05.41.08 Fax: +43-1-502.05.35.44 E-mail : <a href="mailto:fvpk@wko.at">fvpk@wko.at</a>
BELGIUM	<b>Belgische Vereniging van Pensioenfondsen - BVPF</b> <b>Association Belge des Fonds de Pension - ABFP</b> Mr Leon BRASSEUR (until April 2002) Mr Hugo CLEMEUR (as from May 2002) Place de Jamblinne de Meux 4 B – 1030 Brussels Te : +32-2-514.56.56 Fax: +32-2-514.46.14 E-mail : <a href="mailto:hc@bvpf-abfp.be">hc@bvpf-abfp.be</a>
DENMARK	<b>Forsikring &amp; Pension</b> Ms Anne SEIERSEN Forsikringshus Amaliegade 10 DK – 1256 København K Tel: +45-33.43.55.00 Fax: +45-33.43.55.01 E-mail: <a href="mailto:fp@forsikringenshus.dk">fp@forsikringenshus.dk</a>
	<b>Foreningen af Firmapensionskasser</b> (until 31 Dec 2001) Mr R. Frank ANDERSEN c/o Unilever Denmark Stationsparken 25 DK – 2600 Glostrup Tel: +45-45.57.03.23 Fax: +45-45.76.03.32 E-mail: <a href="mailto:Richard-Frank.Andersen@unilever.com">Richard-Frank.Andersen@unilever.com</a>
FINLAND	<b>Association of Pension Foundations</b> Mr Folke BERGSTRÖM Oksasenkatu 4b A11 FIN – 00100 Helsinki Tel: +358-9-7003.94.11 Fax: +358-9-490.657 E-mail: <a href="mailto:folke.bergstrom@elakesaatioyhdistys.fi">folke.bergstrom@elakesaatioyhdistys.fi</a>

<sup>1</sup> Until 25 October 2001

<sup>2</sup> As from 25 October 2001

<sup>3</sup> Resigned 21 June 2001

<sup>4</sup> As from 21 June 2001

<sup>5</sup> Until 30 June 2002

FRANCE<sup>1</sup>**Association Française des Régimes et Fonds de Pension – AFPEN**

Mr Vincent VANDIER  
13, rue Auber  
F – 75009 Paris  
Tel: +33-1-44.51.76.80  
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**Centre Technique des Institutions de Prévoyance – CTIP** (as from 1 January 2002)

Mr Jean-Louis FAURE  
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**Observatoire des Retraites - OR**

(until 31 December 2001)  
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GERMANY

**Arbeitsgemeinschaft für Betriebliche Altersversorgung – ABA**

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GUERNSEY<sup>1</sup>**Guernsey Association of Pension Funds**

Ms Pat MERRIMAN  
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IRELAND

**Irish Association of Pension Funds – IAPF**

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ITALY

**Società per lo sviluppo del mercato dei Fondi Pensione – MEFOP** (as from 1 January 2002)

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E-mail: [mefop03@mcc.it](mailto:mefop03@mcc.it)

LUXEMBOURG

**Banque Générale du Luxembourg - BGL**

Mr Jacques BOFFERDING  
50, avenue JF Kennedy  
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E-mail: [jacques.bofferding@BGL.lu](mailto:jacques.bofferding@BGL.lu)

NETHERLANDS

**Stichting van Ondernemingspensioenfondsen – OPF**

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**Vereniging van****Bedrijfstakpensioenfondsen – VB**

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E-mail: [info@VVB.nl](mailto:info@VVB.nl)

<sup>1</sup> Observer status<sup>1</sup> Observer status

- PORTUGAL **Associação das Empresas Gestoras de Fundos de Pensões**  
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 E-mail: [aegfp.pensoes@mail.telepac.pt](mailto:aegfp.pensoes@mail.telepac.pt)
- SPAIN **Asociación de Instituciones de Inversión Colectiva y Fondos de Pensiones – INVERCO**  
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- SPAIN **Confederación Española de Mutualidades – CNEPS**  
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 E-mail: [cneps@cneps.es](mailto:cneps@cneps.es)
- SWEDEN **The Swedish Association of Institutions for Retirement Provisions managed by social partners – SIRP**  
 Mr Georg HAGSTRÖM (until 14 February 2002)  
 Ms Anneli JÄGFORS (as from 14 February 2002)  
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- UNITED KINGDOM **National Association of Pension Funds – NAPF**  
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## Non-EU Member Associations

- ICELAND<sup>1</sup> **Landssamtök Lífeyrissjóða**  
 Mr Thorgeir EYJOLFSSON  
 c/o Lífeyrissjóður Verzlunarmanna  
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 E-mail: [thorgeir@live.is](mailto:thorgeir@live.is)
- NORWAY<sup>1</sup> **Norske Pensjonkassers Forening**  
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- SWITZERLAND **Association Suisse des Institutions de Prévoyance – ASIP**  
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<sup>1</sup> Observer status

### 13.3. EFRP Supporters' Circle

At the beginning of March 2002, the EFRP Supporters' Circle comprised 25 sponsors, which means a decrease in the amount of sponsors in comparison to with last year.

This could be explained by the following developments :

- Concentrative trend in financial institutions generating fewer but larger entities.
- No renewal because of increase in contribution rate.
- Difficult economic and financial environment, exacerbated by 11 September 2001, which forced companies to review their budget and cut costs.

However, despite this adverse environment, EFRP could also welcome two new sponsors : Vanguard Investments Europe and Goldman Sachs International.

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Pictet & Cie Banquiers
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State Street
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The Northern Trust Company London Branch
Universities SuperAnnuation Scheme Ltd.
Vanguard Investments Europe

## 13.4. EFRP Secretariat

### Staff:

Secretary-General: Chris VERHAEGEN  
Economist: Christel RUTTENS  
Legal Counsel: Roger KOCH  
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